United States Court of Appeals for the Second Circuit



APPELLANT'S APPENDIX

4-1419

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee

DOCKET NO. 73-1291

-vs.-

ROBERT LEE DENSON,

Defendant-Appellant.

APPENDIX FOR DEFENDANT-APPELLANT

ON APPEAL



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INDEX TO APPENDIX

Indictment	A1 - A2
	Transcript Page
Testimony of Mary R. Tallarico	23 - 39
Testimony of Christine Tzetzis	39 - 45
Testimony of Alton Isaac	51 -116
Testimony of Calvin Broadwater	121 -136
Testimony of Douglas Bullock	140 -151
Stipulation of Counsel	156 -157
Testimony of James F. Savage, Jr.	158 -161
Testimony of Raymond Jones	163 -169
Testimony of Paul J. Weatherup	175 -191
Testimony of Henry Breland	191 -201
Testimony of Jeffrey Houston	200 -209
Testimony of Rosa Lee Armster	214 -243
Testimony of Frank Sardino	243 -278
Testimony of Dora Mae Bolden	278 -283
Testimony of Randall Walker	284 -291
Testimony of Andrew Mrozienski	294 -307
Proposed Instruction No. 1	361 -362
Court's Charge to Jury	379 -406

UNITED STATES OF AMERICA

va

ROBERT LEE DENSON, JR., CALVIN BROADWATER, and RAYMOND JONES CREMINAL NO. 73-CR /94

INDICIMENT

Vio.: 18 USC §§2, 2113(a),(d)

COUNT I

THE GRAND JURY CHARGES:

Cn or about the 12th day of September, 1973, in the Morthern District of New York, at Syracuse, New York, ROBERT LEE DENSON, JR., CALVIN BROADWATER, and RAYMOND JONES by force and violence and by intimidation, did take from the persons and presence of Mary Tallarico, Robert Ours, and Paul J. Weatherup about \$23,414 in money, belonging to and in the care, custody, control, management and possession of the First Trust and Deposit Company, the deposits of which were then insured by the Federal Deposit Insurance Corporation;

In violation of Title 18, United States Code, Sections 2 and 2113(a).

COUNT II

THE GRAND JURY FURTHER CHARGES:

On or about the 12th day of September, 1973, in the Northern District of New York at Syracuse, New York, ROBERT LEE DENSON, JR., CALVIE BROADWATER and RAYMOND JONES, by force and violence and by intimidation, did take from the persons and presence of Mary Tallarico, Robert Ours, and Paul J. Weatherup, about \$23,414 in money belonging

to and in the care, custody, control, management and possession of the First Trust and Deposit Company, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and ROBERT LEE DEMSON, JR., CALVIN BROADWATER, and RAYMOND JONES in committing the aforesaid offense did assault Mary Tallarico, Robert Curs, Paul J. Weatherup and others and did put in jeopardy the life of said persons by means and use of a dangerous weapon, that . is a sawed-off shotgum;

In violation of Title 18 United States Code, Sections 2 and 2113(d).

A THUE BILL

FOREMAN OF THE GRAND JURY

UNLITED STATES ATTORNEY

That is the way the system works and that is the way it should work.

So I ask you to listen carefully. I ask you to be discriminating in your judgments on the quality of the testimony of the witnesses. And I believe if you do just that, when you are finished and you leave this courtroom to deliberate on a verdict that you will realize what I was talking about.

I pledge to you during the course of this trial you are going to see doubts; many of them.

And I am going to call those doubts to your mind when this case is over. I am going to do my best to expose those doubts for you.

I hope you will listen carefully to all the proof, as I asked you, and I am confident your verdict will be a fair one.

Thank you.

THE COURT: All right, Mr. Welch.

MR. WELCH: Your Honor please, the United States calls Mrs. Mary Tallerico.

MARY R. TALLARICO

called as a witness in behalf of the government

being first duly sworn, was examined and testified

1		as follows:
2		DIRECT EXAMINATION
3	BY M	R. WELCH:
4	Q	Good morning, Mrs. Tellerico.
5	A	Good morning.
6	Q	When I ask you questions could you respond in a good,
7		loud voice so the jurors can hear you and the people
8	1	behind me can hear you also. Mrs. Tallarico how
9		are you employed?
10	A	I am a teller at the East Side office of the First
11		Trust.
12	Q	Could you speak louder I could barely hear you.
13	A	I am a teller at the East Side office of the First
14		Trust, Syracuse, New York.
15	Q	Where is that located?
16	A	Up on the East Side.
17	Q	Is that Cherry and Lexington?
18	A	Yes. Cherry and Lexington.
19	Q	Were you so employed on September 12, 1973?
20	A	Yes, I was.
21	Q	Directing your attention to that date, September 12,
22		1973, at approximately three p.m. could you tell us
23		what, if anything, took place at the bank at that
24		time?
25	A	We were robbed.

1	Q	When you say "we were robber" can you tell us who you
2		mean by "we"?
3	A	I had a customer. The customer just left.
4	Q	Do you know who the customer was?
5	A	The lady next door.
6	Q	Do you recall her name?
7	A	Chris, I can't pronounce her name. I looked at the
8		clock. It was after three. We usually close at
9		three fifteen on the outside, then we do our work. I
10		looked up and saw three fellows. Two had masks on,
11		and I was real scared, and one of the fellows jumped
12		up on my counter, pointed a rifle. Then the other
13		jumped over the counter and went over to the auto
14		teller and grabbed him and brought him on top, and then
15		went to my window and took my money out of my drawer,
16		and then went to the next teller and took his money.
17		Then he came back to my drawer again, and that is
18		about it. I guess it seemed like an eternity but it
19		was not too long.
20	વ	Can you tell us whether the three men were white or
21		black?
23	A	They were black.
24	Q	And two were wearing masks, did you say?
25	A	Yes.
	Q	The fellow that carried, what you said was a rifle, was

1		he wearing a mask or not?
2	A	I am not absolutely sure.
3	Q	Could you describe to the ladies and gentlemen of the
4		jury What that rifle was, what it looked like?
5	A	It looked like a hunging gun, like my husband has.
6		It was cut off or something.
7		THE COURT: One barrel?
8		THE WITNESS: Two barrels.
9		THE COURT: And it was short?
10		THE WITNESS: Yes.
11	BY M	R. WELCH:
12	Ą	Do you recall if there was any wood sticking out from
13		under the barrel, if you recall?
14	. A	No.
15	Q	Did you see besides this man did you see anyone
16		else have anything in their hands when they came into
17		the bank or where you were?
18	A	A shopping bag from Dey Brothers. It was blue.
19	Q	Could you tell the ladies and gentlemen what you mean
20		by Dey Brothers?
21	A	There is a department store in our city and they have
22		shopping bags with "Dey Brothers" on them.
23	Q	Now when they took the money from the drawers who else
24		of the bank was present at that time?
25	A	There was our manager.

1	Q	What is his name?
2	A	Mr. Weatherup.
3	Q	And anyone else?
4	A	Our desk girl, Linda, and we had two male tellers.
5	Q	You mentioned two drawers that they took money out of.
6	A	Yes.
7	Q	Whose drawers were they?
8	A	Mine, Mary Tallerico and Bob Hours.
9	Q	Was Bob House there at the time?
10	A	Yes, he was there.
11	Q	Do you recall whether or not they said anything when
12		they came in?
13	A	I don't know which one said it but they said "Hends
14		up."
15		MR. MICHAELS: I object unless she specifies
16		who said it.
17		THE COURT: If she can.
18	Q	Dp you recall?
19	A	No. Some said "Hands up."
20		MR. MICHAELS: Objection.
21		THE COURT: Cverruled.
22		Are you sure it was one of the three?
23		THE WITNESS: Yes.
24	BY M	R. WELCH:
25	Q	Did the one man say anything as he pointed the gun?

1	A	I don't remember, because 0 shook so. Was that scared
2		And I kept saying to myself "don't faint; they might
3		shoot you." That is what I kept thinking.
4	Q	Mrs. Tallerico could you tell the ladies and gentlemen
5		of the jury what the outside of the bank looks like?
6		Are there any buildings near that bank?
7	A	There is a grocery store right next door. It is busy.
8		It is on the corner.
9	Q	The bank is on the corner?
10	A	The bank is on the corner? No. There is a bus stop
11		and there is a fence around the corner so no one will
12		fall when they are walking. The auto teller is there.
13	Q	Is it a fence or railing?
14	A	A railing.
15		THE COURT: Is this in a shopping plaza?
16		THE WITNESS: No. It is in the side it
17		is the corner of Cherry Street, Lexington Avenue
18		and East Genesee.
19		THE COURT: Where is that?
20		THE WITNESS: Up near the Waldorf.
21	BY M	R. WELCH:
22	Q	Mrs. Tallerico do you recall what the weather was
23		that day?
24	A	It was a nice day.
25	Q	Was it sunny out?
	11	

	1	
1	А	Yes.
2	Q	At the time of the bank robbery the sun was still out
3	A	Yes.
4		MR. WELCH: Your Honor may I approach the
5		witness?
6		THE COURT: Yes.
7	BY M	R. WELCH:
8	_s Q	Mrs. Tallerico I hand you what has been marked as
9		Government's Exhibit 1 for Identification. Can you
10		tell the ladies and gentlemen of the jury, does that
11		reflect the outside of the bank as it was on Septembe
12		12th, 1973?
13	A	Yes.
14		(Photograph marked as Government's Exhibit
15		No. 1 for Identification.)
16	Q	Does that reflect the outside of the bank as it was
17		on September 12th?
18	A	Yes.
19	Q	Is that an accurate reflection of the bank as it was
20		on September 12th?
21	A	Right.
22		MR. WELCH: Your Honor, the government moves
23		Exhibit No. 1 into evidence.
24		MR. MICHAEIS: May I ask a question on voir
25		dire? May I approach the witness?
	THE RESERVE THE PROPERTY OF TH	

	1	A	I said in their twenties.
	2	Q	You also told the F.B.I. that all three males were
	3		approximately five foot six?
	4	A	I don't remember that I said that.
	5	Q	Does the statement show it?
	6	A	Yes.
	7	Q	Do you agree that the statement is accurate?
	8	A	It is supposed to be.
	9	Q	You did tell the F.B.I. that all three males that
-	10		entered the bank were five foot six?
	11	A	I must have said it. Right.
	12	7	MR. MICHAELS: I have no further questions.
	13		THE COURT: Any redirect?
	14		MR. WELCH: No redirect.
	15		THE COURT: You are excused.
	16		MR. MICHAELS: Thank you very much.
	17		THE COURT: You are excused, Mrs. Tallerico.
	18		Thank you.
	19		(Witness excused.)
	20		MR. WELCH: United States calls Mrs.
	21		Christine Tzetzis.
	22		
	23		CHRISTINE TZETZIS
	24		called as q witness in behalf of the Government
	25		being first duly sworn was examined and testified

	as follows:
•	DIRECT EXAMINATION
BY M	R. WELCH:
Q	Is it Mrs. Tzetzis?
A	Yes.
	THE COURT: Please keep your voice up so we
	can all hear you.
	THE WITNESS: Yes.
Q	Mrs. Tzetzis could you tell the ladies and gentlemen
	of the jury how you are employed?
A	Right.
Q	Yes. What do you do for a living?
A	Lexington Avenue grocery store.
Q	A grocery store on Lexington Avenue?
A	Yes.
Q	Can you tell them where that is located on Lexington
	Avenue?
A	Next door to the First Trust bank.
Q	Would that be in the area of Cherry and Lexington?
A	Cherry and Lexington.
Q	And next door to the bank?
А	Right.
Q	Do you run that store or work there?
A	We run the store.
Q	When you say "we" who is that?
	Q A Q A Q A Q A Q A Q A

1	A	My husband.
2	Q	Did you run that store on September 12, 1973?
3	A	Yes.
4	Q	Were you at the store on September 12, 1973?
5	A	Yes.
6	Q	Directing your attention to that date, September 12,
7		1973, at approximately three p.m. do you recall what
8		you were doing at that time?
9	A	Three p.m.?
10	Q	Yes.
11	A	I went to deposit.
12	Q.	Will you continue telling the ladies and gentlemen
13		of the jury exactly what you did and what you saw?
14	A	I went to deposit and I saw three, because they were
15		standing, three guys were outside the bank.
16	Q	And were they standing by something?
17	A	The rails.
18	Q	Standing at the rail? Which rail? The rail by
19		the automobile teller?
20	A	No, outside the bank.
21		THE COURT: By the auto teller's rail.
22		Could you show us in the picture where they were
23		standing?
24	BY N	MR. WELCH:
25	Q	Mrs. Tzetzis I am going to approach you with a photo

1		now marked Government's Exhibit 1 and ask you to take
2		this pen and put a mark on this picture where you
3		saw those three men standing.
4	A	(Indicating and marking) Right here. This is where
5		it is.
6	Q	You put a mark right in the lower left hand corner
7		there?
8	A	Right.
9	Q	Could you tell us what the three men looked like as
10		best you can recall? Were they white or black men?
11	A	Black.
12	Q	Were they young or old men?
13	A	Young.
14	- Q.	THE COURT: How were they dressed? Can
15		you tell us?
16	A	THE WITNESS: I can't remember. No.
17		THE COURT: How long did you look at them?
18		THE WITNESS: A few minutes. I went next
19		door to deposit.
20	BY M	R. WELCH:
21	Q	Did they have anything in their hands when you saw the
22		When you went to make the deposit?
23	A	I can't remember.
24	Q	Did you make the deposit?
25	A	Yes.

1	Q When you came out of the bank where did you go?
2	A Next door, to our store.
3	Q Do you recall anything happening after you went back
4	to the store?
5	A Yes. I was standing to the door so I saw three guys
6	running. They had Dey Brothers bags.
7	Q They had Dey Brothers bags?
8	A Yes.
9	Q Were they different from the other three guys that
10	you had seen before you entered the bank?
11	A Same guys.
12	Q How many bags did they have?
13	A I don't know. I saw two bags, I think. I don't know
14	about the other.
15	THE COURT: Two of the men were each carry-
16	ing a bag?
17	THE WITNESS: Yes.
18	THE COURT: And the third man you don't know
19	what he was doing?
20	THE WITNESS: I don't remember the third
21	one.
22	BY MR. WELCH:
23	Q When you first went into the bank and you saw them
24	did they have anything in their bags?
25	A No.

1?

1	Q	Do you recall seeing their faces as they came out of
2		the bank?
3	A	(No response.)
4	Q	What did you see after they came out of the bank?
5		Which way did they go?
6	A	To the front of our store, they ren.
7	Q	Were they walking or running?
8	A	Running.
9	Q	You get a chance to see their faces at that point?
10	A	No.
11	Q	Besides those three men do you recall anyone else
12		being in front of the bank at that time?
13	A	There was one waiting for a bus over there. I don't
14		know.
15		THE COURT: Do you recall how many people
16		were waiting for the bus?
17		THE WITNESS: No.
18		THE COURT: But there was one, at least
19		one?
20.		THE WITNESS: Maybe more than one.
21		THE COURT: Maybe more than one.
22	BY M	R. WELCH:
23	Q	And do you recall what kind of a day that was; what
24		the weather was outside, Mrs. Tzetzis?
25	А	Sunny.

		42.
1	Q	Could you tell us how long you wore to the
2		Could you tell us how long you were in the presence
3		of the three men on the railing?
4	A	No.
	Q	About how long were they in your presence?
5	A	What is that?
6	Q	How long did you see them?
7	A	Just a few minutes. I go next door.
8	Q	If you saw any of those men today do you think you
9		could identify them?
10	A	No.
11		MR. WELCH: I have no further questions,
12		Your Honor.
13		
14		MR. MICHAELS: I understand, Mr. Welch
15		that Mr. Evans has already been given her state-
16		ment.
17		(Statement of Witness Tzetzis marked as
18		Exhibit 3502.)
19		MR. MICHAELS: If I may just have a minute,
20		Your Honor.
		THE COURT: Yes.
21		(Mr. Michaels peruses statement.)
22		MR. MICHAELS: I have no questions, thank
23		you. Thank you very much.
24		THE COURT: You are excused. Thank you.
25		(Witness excused.)
		(*Tonosa excused.)

1	AFTERNOON SESSION
2	APPEARANCES: Same as morning session.
3	THE CLERK: Bring the jury in.
4	(At this point the jury was brought into
5	the courtroom and seased in the jury box.)
6	MR. WELCH: If Your Honor please, the
7	United States calls Alton Isaac to the stand.
8	
9	A L T O N I S A A C
10	called as witness in behalf of the Government
11	being first duly sworn, was examined and testi-
12	fied as follows:
13	DIRECT EXAMINATION
14	BY MR. WELCH:
15	Q Now, Alton, keeping your voice up good and loud so
16	that these people in the jury box can hear you, will
17	you tell us how old are you?
18	A Twenty.
19	Q We couldn't hear that.
20	A Twenty.
21	Q And where do you live?
22	A East side of Syracuse.
23	
	Q hast side of Syracuse. New fork?
24	Q East side of Syracuse, New York? A Yes.
	A Yes. Q Did you live there during September of 1973?

A	Yes.
Q	Mr. Isaac do you know where the First Trust and
	Deposit bank is on Cherry and Lexington Avenue, in
	the City of Syracuse, New York?
A	Yes.
Q	About how far away in city blocks is it to that bank?
A	About 4.
	THE COURT: Please keep your voice up. I
	am sure you can talk louder than that.
	THE WITNESS: I have a cold.
BY MR.	WELCH:
Q	Mr. Isaac how much education have you had?
A	Through high school.
Q	You graduated from high school?
A	Yes.
વ	Could you tell the Court and jury I heard you men-
	tion something about your cold how was your health
	back in September 1973?
A	Good.
Q	Did you ever wear glasses?
A	No.
Q	Did you ever have to have any help with your hearing?
А	No.
Q .	So you could see and hear in September 1973?
A	Yes.
	Q A Q A Q A Q A Q

1	Q	All right, Mr. Isaac, I direct your attention to
2		September 12, 1973, at approximately three p.m. Can you
3		tell the ladies and gentlemen of the jury what you were
4		doing at that time on September 12, 1973?
5	A	I was standing on the corner by the bank waiting for a
6		bus.
7	Q	Which bank is that?
8	A	First Trust.
9	Q	Is that the one at Cherry and Lexington?
10	A	Yes.
11	Q	Do you remember what kind of a day it was? What the
12		weather was?
13	А	Fine.
14	Q	Was the sun out?
15	A	Yes.
16	Q	Will you tell the ladies and gentlemen of the jury while
17		you were waiting for the bus in front of the bank what
18		if anything took place?
19	A	This guy walked up to me and asked me would I do him a
20		favor, and I said "Yes". And I said "What"? He said,
21		"If you see a copy tap on the window." I said, "Okay."
22		MR. MICHAELS: I didn't hear the last part.
23		(The Court Reporter repeated the answer as
24		above recorded.)
25		THE COURT: Mr. Welch why don't you stand

1		over at the end of the jury box so that he will
2		have to speak up.
3	BY M	R. WELCH:
4	ର	Now, Mr. Isaac, this man that came up and asked you to
5		tap on the window, was anyone else with whim when he
6		asked you that?
7	A	With me?
8	Q	With wim or with you?
9	A	Yes. My nephew.
10	Q	How old is your nephew?
11	A	Four.
12	Q	How about the man that spoke with you, was anybody with
13		him?
14	Ą	Yes.
15	Q	How many people were with him?
16	A	Two more.
17	Q	About how long were those three men, the one who spoke
18		with you and the two with him, how long were they in
19		your presence that afternoon?
20	A	About four or five minutes.
21	Q	About how close did they come to you, particularly the
22		individual who spoke to you, how close did he get to you?
23	A	Close.
24	Q	Did he get this close to you?
25	A	Closer.

1	Q Closer. Did he get this close to you?
2	A About that.
3	Q About like this?
4	A Yes.
5	THE COURT: Indicating about three feet.
6	MR. WELCH: Thank you, Your Honor.
7	THE COURT: Was he looking right at you?
8	THE WITNESS: Yes.
9	THE COURT: Were you looking right at him?
10	THE WITNESS: Yes.
11	THE COURT: How long did you look at him?
12	Can you tell us that?
13	THE WITNESS: I don't know. I don't remem-
14	ber.
15	THE COURT: Could you count count to
16	yourself about how many seconds it would be?
17	One, two, three, four?
18	THE WITNESS: I don't remember.
19	THE COURT: You don't remember?
20	THE WITNESS: No.
21	THE COURT: All right.
22	BY MR. WELCH:
23	Q Mr. Isaac this fellow that spoke to you in the words the
24	you just gave us, did he stand with you for any length
25	of time before he said that?

1	A	I didn't hear you.
2	Q	You just told us what the man said to you and what you
3		said to him. Was he next to you and you looking at him
4		in addition to when he was speaking to you, either before
5		he spoke to you or after he spoke to you, were you stand
6		ing near him?
7		MR. MICHAEIS: I object to that form.
8		THE COURT: I will allow it. Go ahead.
9	Q	How long were they in your presence altogether?
10	A	This day?
11		THE COURT: Can you estimate. More minute?
12		Less than a minute?
13		THE WITNESS: No.
14	Q	Mr. Isaac the fellow who spoke to you on September 12,
,15		about three o'clock that day, have you ever seen him
16		proor to that time when he spoke to you?
17	A	In Thornden d Park.
18	Q	You saw him at Thorndan Park?
19	A	Yes.
20	Q	What was he doing when you saw him at Thornden Park?
21	A	Playing basketball.
22	Q	You play basketball with him?
23	A	No.
24	Q	You ever see the other two fellows with him prior to that
25		day?

- 1		
1	A No.	
2		THE COURT: How many times had you seen him
3		play basketball?
4		THE WITNESS: About once.
5		THE COURT: How many?
6	•	THE WITNESS: Once.
7		THE COURT: How long were they playing
8		basketball?
9		THE WITNESS: I didn't stay around that
10		long.
11		THE COURT: You must have stayed around
12		some time. About how long?
13		THE WITNESS: About five minutes.
14		THE COURT: And you watched him play basket
15	9	ball?
16		THE WITNESS: Yes.
17		THE COURT: How long before he came up to
18		you on the corner was that?
19		THE WITNESS: When?
20		THE COURT: You said you saw him playing
21		basketball. How long after was it that you
22		saw him on the corner?
23	+-	THE WITNESS: It was not the same day.
24		THE COURT: A couple of days? A week?
25	200	Can you tell us?

THE WITNESS: I don't remember.
THE COURT: Try hard.
THE WITNESS: I don't remember.
THE COURT: Was it that summer?
THE WITNESS: Perhaps.
THE COURT: What?
THE WITNESS: Yes.
THE COURT: Where were you playing basket-
ball, outdoors or indoors?
THE WITNESS: Outdoors.
THE COURT: On a basketball outdoors court?
THE WITNESS: Yes.
THE COURT: On a sunny day?
THE WITNESS: I can't recall that.
THE COURT: Can you recall whether it was
that summer?
THE WITNESS: Yes.
THE COURT: Was it that summer?
THE WITNESS: Yes.
THE COURT: WITH whom was it early in
the summer of late in the summer?
THE WITNESS: Early in the summer.
THE COURT: Early in the summer. Would it be
June, sometime in June, or July?
THE WITNESS: I don't remember.

1		THE COURT: All right.
2	BY N	R. WELCH:
3	Q	Besides the time you saw him playing basketball, you
4		see him at any other place prior to that day in front
5		of the bank?
6	A	No. I don't think so.
7	Q	How the man who spoke to you, can you tell the ladies
8		and gentlemen of the jury, the best of your recollection
9		what he looked like?
10	A	A black male, about six feet tall, large shoulders.
11	Q	How about his face, Mr. Isaac? Was there anything
12		particular about his face that you might recall?
13	A	No.
14	Q	Do you know if he had any scars, moustache, beard,
15		anything of that nature?
16	A	He had a little beard.
17	Q	A little beard did you say?
18	A	Yes.
19	Q	We can't hear you down here. Did he have any moustache
20	A	No. I didn't see any.
21	•	THE COURT: You say a little beard. A
22		beard like you got?
23		THE WITNESS: No, not that much.
24		THE COURT: Not that much.
25	BY N	IR. WELCH:

1	Q	All right. Now when they first came up to you, those
2		three men, did they have anything on their faces at
3		that time? Were they wearing sun glasses or anything
4		covering their faces?
5	A	Yes; sun glasses.
6	Q	How about the man who spoke to you; he have anything
7		on his face when he came up and spoke to you?
8	A	I can't remember.
9	Q	At any time while you were waiting for the bus did you
10		see those three men put anything on their faces?
11	A	No.
12	Q	All right, Mr. Denson excuse me, Mr. Isaac, the man
13		who came up to speak to you in front of the bank, is
14		he in court today?
15	A	Yes.
16	Q	Will you point him out to the ladies and gentlemen of
17		the jury?
18	A	(Indicating) There.
19	Q	What is he wearing?
20	A	Blue.
21		MR. MICHAELS: Objection. He is not even
22		looking at him. He is looking out that way
23		(indicating) and pointing this way (indicating).
24		THE COURT: Let the record indicate he
25		identified the defendant.

1	BY N	IR. WELCH:
2	Q	Now prior to that time when Mr. Denson came up to you
3		and asked about knocking on the window if you saw
4		well I don't remember what you told us. At the time
5		when Mr. Denson came up and spoke to you, had you tall
6		to Mr. Denson at all about robbing that bank?
7	A	No.
8	Q	Had you had any conversation with any of those three
9		men that day prior to the time in front of the bank?
10	A	No.
11	Q	Did you see them go into the bank?
12	А	Yes.
13	Q	Tell us what you saw after they spoke to you?
14	A	I saw them go into the bank, stay about three or four
15		minutes and come out.
16		THE COURT: Mr. Reporter, read that to
17		me.
18		(The Court Reporter repeated the answer
19		as above recorded.)
20		THE COURT: I can't hear you. Please
21		speak up.
22	BY M	R. WELCH:
23		

24

25

Keep your voice up so everyone can hear you. When you Q saw them go into the bank they have anything in their hands?

1	A I seen a bag.
2	Q What kind of a bag?
3	A Blue bag.
4	Q Anything else about that bag that you recall?
5	A No.
6	Q Did it have any writing on it?
7	A Might have had "Dey Brothers" on a it.
8	MR. MICHAELS: I object to what it might
9	have had.
10	THE COURT: The best you can remember.
11	Don't guess. You see any writing on it?
12	THE WITNESS: Yes.
13	THE COURT: What did you see?
14	THE WITNESS: Dey Brothers.
15	BY MR. WELCH:
16	Q When they came out of the bank in three minutes or so
17	that you just mentioned, they come out of the bank
18	or how did they come out of the bank?
19	A Running.
20	Q They were running? You will have to speak louder.
21	A Yes.
22	Q Did they have anything in their hands when they came
23	out of the bank?
24	A I seen a bag and a gun.
25	Q How about the man who spoke to you prior to going into

1	the bank was he carrying an	ything?
2	A I can't remember.	
3	THE COURT: Di	d you see that man go into
4	the bank?	
5	THE WITNESS:	Yes.
6	THE COURT: Di	d you see that man, the
7	defendant here, go	into the bank?
8	THE WITNESS:	Yes, I seen him go in.
9	THE COURT: Di	d you see him inside?
10	THE WITNESS:	Did I see him inside?
11	THE COURT: R	lght. Could you see inside
12	the bank?	
13	THE WITNESS:	I didn't look in the bank.
14	1 seen them go III.	
15	DI MR. WELCH:	
16	& when these three men came	running out of the bank, you
17	sag they were carrying a ba	ag and a gun. Can you tell
18	us who was carrying the bag	g and who was carrying the
19	gun :	
20	A 1 can't remember who was ca	arrying the bag, but this
21	other dude was carrying the	gun.
22	Q By "this other dude" you me	ean someone other than Mr.
23	Denson was carrying the gui	0?
24	A Yes.	
25	Q When they came out of the	bank you notice anything on

1		their faces?			
2	A	I didn't pay attention.			
3	Q	When they came out of the bank did you see which way			
4		they went?			
5	A	Down Lexington.			
6	Q	What?			
7	A	Down Lexington.			
8	Q	Is that away from Cherry or towards Cherry Street?			
9	А	Away from Cherry.			
10	Q .	Now, Mr. Isaac, did there come a time later on that			
11		day, on September 12, when you were interviewed by any			
12		police agencies or the F.B.I.?			
13	A	Pardon?			
14	િ	Later on that day, after you saw Mr. Denson go into the			
15		bank and come running out, were you subsequently inter-			
16		viewed by some police agency?			
17	Ą	Later on in the day?			
18	Q	Yes.			
19	A	Later on that day.			
20	Q	Did they show you any photographs?			
21	A	Yes.			
22	Q	No you have any idea of the number of photographs they			
23 24		showed you?			
	A	No. It was a lot.			
25	Q	Was it more than three?			

1	A	Yes.
2	Q	And out of those photographs did you pick a photograph
3		of the defendant Denson?
4	A	Yes.
5	Q	Now where was that, do you recall? Was that at the
6		Syracuse Police Department of the F.B.I.?
7	A	Police Department.
8	Q	Was that in the presence of the police officer or the
9		F.B.I. agent?
10	A	Police officer.
11	Q	Now on September 13th, the day after the robbery, were
12		you interviewed by F.B.I. agents?
13	A	Yes.
14	Q	Did they show you any photographs?
15	A	Yes.
16	Q	Do you have any idea how many of those photographs were
17		shown to you by the F.B.I.?
18	A	About nine.
19	Q	Do you remember whether or not you picked out any photo-
20		graphs from those?
21	A	Yes.
22	Q	Was Mr. Denson's one of the photographs that you picked
23		out?
24	A	Yes.
25		THE COURT: Was he one of them or was he

1	the only one?
2	THE WITNESS: Pardon?
3	THE COURT: How many photographs did you
4	pick out?
5	THE WITNESS: One.
6	THE COURT: Just one?
7	THE WITNESS: Yes.
8	BY MR. WELCH:
9	Q During the time that the Syracuse Police Department or
10	the F.B.I. were showing you photographs, did you pick
11	out any other photographs than Mr. Denson's?
12	A I didn't hear you.
13	Q During the time the Police Department or the F.B.I.
14	were showing you photographs, did you pick any other
15	photographs other than Mr. Denson's picture?
16	A Yes.
17	Q Can you tell us whose pictures those were?
18	THE COURT: When? On which occasion?
19	Your questions are compounded. We don't get
20	any definite answer. Take them one at a time.
21	BY MR. WELCH:
22	Q Mr. Isaac at the time you were viewing photographs for
23	the Syracuse Police Department did you pick out a photo
24	graph of either of the other two men that were with
25	Mr. Denson?

1	A	Yes.
2	Q	Did you pick out a picture of one of the other men or
3		both of them?
4	A	Both of them.
5	Q	So with the Syracuse Police Department you picked out
6		at least three pictures; is that correct so far?
7	A	At the F.B.I. office I picked out one.
8	Q	Let's first talk about the Syracuse Police Department.
9		How many pictures did you pick out altogether?
10	A	Three. Three pictures altogether.
11	Q	At the F.B.I. office
12		THE COURT: Wait a minute now. How many
13		pictures did you pick at that time, when you
14		were at the Police Department?
15		THE WITNESS: I don't how many did I
16		pick?
17		THE COURT: How many were shown you?
18		THE WITNESS: I don't know what you mean.
19		THE COURT: You say you picked out three.
20		Were you shown more than three?
21		THE WITNESS: Yes.
22		THE COURT: How many more, can you remember
23		THE WITNESS: A box.
24		THE COURT: What is that?
25		(The Court Reporter repeated the answer
		1

1	above recorded.)	
2	THE COURT: A box?	
3	THE WITNESS: Yes.	
4	THE COURT: How big a box?	
5	THE WITNESS: (Indicating) Like that.	
6	THE COURT: As big as this? (Indicating)	
7	THE WITNESS: Yes.	
8	THE COURT: With as many pages as the book	
9	has now?	
10	THE WITNESS: Yes.	
11	THE COURT: And each one a photograph	
12	on each page?	
13	THE WITNESS: Yes.	
14	THE COURT: More than one photograph on a	
15	page?	
16	THE WITNESS: Yes.	
17	THE COURT: How many photographs on a	
18	page?	
19	THE WITNESS: I don't know.	
20	to THE COURT: I want to say/the ladies and	
21	gentlemen of the jury, don't think I have any	
22	views in the case because I am asking questions	
23	I am simply trying to get at a search for the	
24	truth here.	
25	BY MR. WELCH:	

1	Q	Now, Mr. Isaac, directing your attention to last
2		Friday, February 8th, 1974, did you have occasion to
3		go to the Federal Building in Syracuse, New York?
4	A	Did I what?
5	Q	Did you have occasion to go to the Federal Building
6		in Syracuse, New York?
7	Α	Yes.
8	Q	Were you shown any photographs that day?
9	А	Yes.
10	Q	Do you know how many photographs you were shown on
11		that day?
12	A	Twenty-one.
13	Q	And out of those twenty-one pictures did you pick any
14		of the people involved in that bank robbery?
15		MR. MICHAELS: Objection. I don't under-
16		stand the relevancy of what he did last week.
17		THE COURT: I will overrule it.
18		Let the record reflect when I said to the
19		witness as big as this book, I was referring
20		to the Judge's sheet book, which is eight by
22		ten and about one and a half inches thick.
23	BY M	R. WELCH:
24	Q	When you said you saw twenty-one pictures, did you
25		pick any of those pictures out of the twenty-one?
0	A	Yes.

	- 11	17.
1	Q	How many pictures did you pick?
2	A	One.
3	Q	Which picture was that?
4	A	His. (Indicating defendant.)
5		MR. WELCH: I have no further questions,
6		thank you.
7		CROSS EXAMINATION
8	BY I	MR. MICHAELS:
9	Q	Mr. Isaac how many times since September 21, 1973,
10		how many separate times have you been interviewed by
11		somebody from the Syracuse Police Department?
12	A	I didn't get your question.
13	Q	How many times have you, since September 12, 1973,
14		the date of this incident you just have been talking
15		about, how many times have you talked to members of
16		the Syracuse Police Department about this case?
17	A	I can't recall.
18	Q	More than one?
19	A	Yes.
20	Q	More than two?
21	A	Yerhaps.
22	Q	More than three?
23	A	Yes.
24	Q	
25		Let's keep going. More than four? Would it be about four or five?
		1941 01 11/01

1	A	I can't recall.
2	Q	All I want to do is find out, Mr. Isaac. You said it
3		was more than three and I said "four" and you said you
4		were not sure.
5	A	Yes.
6	Q	And I am talking about the Syracuse Police Department.
7		Okay. How many separate times have you gone to the
. 8		Public Safety Building in Syracuse and talked to the
9.		Syracuse Police about this case?
10	A	How many times I went there?
11	Q	Yes.
12	A	Once.
13	Q	When was that?
14	A	That night.
15	Q	September 12th?
16	A	Yes.
17	Q	And that one time you talked to the Syracuse Police
13		Department detectives again?
19	A	No.
20	Q	How many times have you separately met with agents of
21		the F.B.I.?
22	A	A lot.
23	Q	You met them on the 12th?
24	A	What do you mean?
25	Q Z	Isn't it a fact that the first time that you had contact

1		with anybody investigating this was with an F.B.I.
2		agent?
3	A	Yes.
4	Q	He came to your house about five o'clock?
5	A	Yes.
6	Q	So the first person you talked to was a man from the
7		F.B.I.?
8	A	Yes.
9	Q	And the next people you talked to was the Syracuse
10		Police Department?
11	A	Yes.
12	Q	And then the next people you talked to was the F.B.I.?
13	A	Yes.
14	Q	Who did you see that first day?
15	A	The first day I talked with an agent. And again later
16		on he took me downtown. And the next day he came
17		back and got me and took me back downtown.
18	Q	You did not answer my question. A minute ago when I
19		asked you how many times you talked to the F.B.I. you
20		said many; is that right?
21	А	Yes.
22	Q	How many?
23	А	I don't know.
24	Q	How many times have you talked to Mr. Welch?
25	А	Quite a few.
ASSESSMENT OF THE PROPERTY OF	li .	

1	Q	Today, were you in his office today, on the other side
2		of the building?
3	A	Yes.
4	Q	What time did you get there?
5	A	A little after ten, I think.
6	Q	You talked to Mr. Welch this morning before the Court
7	100	started this morning?
8	A	Yes.
9	Q	Did you talk to Mr. Welch during the luncheon recess?
10	A	Yes.
11	Q	How many other times have you talked to Mr. Welch?
12	A	No other times.
13	Q	Never met Mr. Welch before today?
14	A	Yes.
15	Q	How many other times have you talked to him?
16	A	Quite a few.
17	Q	More than five? More than five?
18	A	Wait a minute. I would say about three.
19	Q	When was the last time before today? Last Friday, on
20		the 8th, didn't you talked to him and he showed you
21		some photographs?
22	A	Yes.
23	િ	When was the last time before that?
24	A	When I had to go to court.
25	0	When did you go to sount? You man to the

Q

When did you go to court? You mean to the grand jury?

1	A	Yes.
2	Q	And between the time you went to the grand jury and
3		last Friday, February 8th, had you talked to him in-
4		between?
5	A	No.
6	Q	Did you talk to Mr. Welch at any other time before you
7		went to the grand jury?
8	A	No. That is when I had met him and I had to go to
9		the grand jury.
10	Q	Did you talk to any other lawyers on this case, from
11		Mr. Welch's office?
12	А	Lawyers?
13	Q	Yes. Did you talk to Mr. DiBianco?
14	A	No.
15	Q	Did you talk to Mr. Sullivan?
16	A	Pardon?
17	Q	Did you talk to Mr. Sullivan?
18	A	Sullivan?
19	Q	Does the name ring a bell?
20	A	I don't know those guys.
21	Q	Did you ever talk to an assistant district attorney
22	-	from the Onondaga County District Attorney's office
23		by the name of Lucia?
24	A	I can't remember.
25	Q	Lupia. I am sorry.

1	· A	I can't remember.
2	Q	Do you recall there was a hearing held in the Public
3		Safety Building in Syracuse, New York, on September 21
4		1973 and you received a subpoena to be there?
5	A	No.
6	Q	You ever recall receiving a subpoena to be at the Publ
7		Safety Building, at Syracuse, New York, to be there
8		for a hearing?
9	A	No.
10	Q	Weren't you told by the Onondaga County District Attor
11		ney's office to be in court on September 23rd, for a h
12		ing?
13	A	I can't remember.
14	Q	Did you ever talk to any lawyer, any of the assistant
15		district attorneys of the Onondaga County District Att
16		ney's staff?
17	A	I don't remember of any.
18	Q	By the way how many times have you talked to me?
19	А	To who?
20	Q	To me.
21	A	This is the first time.
22	Q	You did testify at the grand jury, did you not? I
23		think you mentioned you testified; that Mr. Welch
24		told you to go to the grand jury; is that correct?
25	A	I went to the grand jury.

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Q And at that time you were questioned before the Grand Jury by Mr. Welch; is that correct?

A Yes.

Q Now did you review your testimony before you testified today?

A Yes.

MR. MICHAELS: May I see it please?

(Mr. Welch hands documents to Mr. Michaels.

THE COURT: We will take a short recess.

That testimony is of some length. Mr. Michaels obviously needs a little time to study it.

The jury may take a short recess.

(At this point the jury retired from the court room and a short recess was taken.)

(Grand Jury minutes of testimony of Alton
Isaac marked as Exhibit 3504; Statement of
Alton Isaacs marked as Exhibit 3503, and Statement of Alton Isaacs marked as Exhibit 3505.)

(The following took place in open court with the jury present.)

MR. MICHAEIS: Sorry for the delay, Your Honor. When I was reading the grand jury minutes there was reference to other matters and I asked Mr. Welch for it and he provided it. Thank you very much for the recess.

	THE COURT: Will counsel come up a moment.
	(Discussion was held at the Bench between
	the Court and counsel, outside the hearing of
	the Court Reporter.)
BY	MR. MICHAELS:
Q	Mr. Isaac you testified on direct examination that Mr.
	Welch was questioning you and that the only one of those
	men that you had ever seen before was my client; that
	you had seen him playing basketball; is that correct?
A	Yes; I said that?
Q	That is what you just said here this afternoon, your
	sworn tostimony under oath, that the only person you had
	ever seen before was my client, the one you pointed to
	several times; is that correct.
Q	You also were asked under oath had you ever seen the oth
	two on any other occasions and you said "no"; is that
	correct?
A	You didn't ask me that.
Q	I didn't ask you that but Mr. Welch asked you that.
	Didn't you tell Mr. Welch this afternoon that the only
	one you had ever seen before was Mr. Denson, my client?
A	No.
Q	What did you say? Would you like me to have the Court
	Reporter read back the testimony?
Α	I don't think it is necessary.
	Q A Q A Q

	11	
1	Q	Inn't it true that I recall your testimony correctly?
2		You did say this afternoon that the only one you had
3		ever seen before was Mr. Denson; correct?
4	A	Yes.
5	Q	Did you read your grand jury testimony while you were
6		sitting out in the U.S. Attorney's office? And I
. 7		show you this document marked Exhibit 3504. Did you
8		read that today?
9	A	Did I?
10	Q	Yes. Yes or no?
11	A	Yes.
12	Q	You read the whole thing?
13	A	Yes.
14	- Q	Do you remember when you testified before the grand
15		jury, and this is a transcript of your testimony, between
16		the time that you testified before the grand jury when
17		Mr. Welch questioned you and today, did you ever read
18		that before?
35	A	No. Today.
20	Q	You didn't read that when you were in Mr. Welch's office
21		last week?
22	A	No.
23	Q	How about Exhibit 3505, you ever read that before?
24	A	Yes. Today.
	•	

Ever read that before, between the time you signed it

25

Q

1 and today? 2 A No. 3 Q. O.K. Your answer was no. Mr. Isaac you will have to 4 speak up. Mr. Jordan is having a difficult time hear-5 ing, I can see. How about 3503, that is the F.B.I. re-6 port. Did you read that before today? 7 A Some of it. 8 Q What parts did you read? Did you read the part that 9 had your own statement? 10 A This page. 11 Q Oh, you read the part of it that begins on Page 33, 12 which is a typed copy of your statement. Did you read 13 that? 14 A No. 15 Q You will have to speak up. Mr. Isaac. 16 I don't remember. A 17 Q Have you ever read that statement? That is the state-18 ment that you gave to the Federal Bureau of Investiga-19 tion. 20 A Yes, I guess so. 21 Q And that was shortly after this incident in September. 22 wasn't it? 23 A Yes. 24 Q This appears to be a photocopy. Probably there is 25 another one scmeplace signed by you. And on Page 34

1		it indicates that you signed it. Do you recall sign-
2		ing that statement?
3	A	I can't recall.
4	Q	And then there is another statement that begins at
5		Page 35 and ends on 37, which is another statement again
6		and your name is typed and something appears that you
7		signed it. Do you remember signing that second
8		statement for the F.B.I.?
9	A	I read through so much.
10		MR. MICHAELS: Do you by any chance have
11		the original that bears the signature, Gene?
12		Can we stipulate the ones that appear in here
13		with the typed signature apparently were signed
14		by him at one time?
15		MR. WELCH: Yes.
16	BY M	R. MICHAELS:
17	Q	Now we just agreed that your testimony today under oath
18		is that the only person you ever saw before the 12th of
19	st.	September 1973 was Robert Denson. You agree that that
20		was your testimony; correct?
21	A	Yes.
22	ୟ	And you told me you read this grand jury testimony;
23		correct? Your answer is "Yes"?
24	A	Yes.
25	Q	I show you would you read along with me and I ask you

1	if you recall the following question and the following
2	answer excuse me I will rephrase that.
3	Do you recall the following question being asked
4	you and the following answer being given by you when
5	you testified under oath at the grand jury? Beginning
6	at Page 18, Line 13:
7	"Q Had you ever seen these fellows
8	before?
9	A Yes.
10	Q And where did you see them before?
11	A Across town."
12	Do you recall those two questions and those
13	answers?
14	A When? Today?
15	Q No. When you testified at the grand jury about three
16	and a half months ago.
17	A Yes.
18	Q You recall that. And am I reading it correctly?
19	A Yes.
20 21	Q And continuing the questioning at Line 17:
22	"Q And when you mean across town, is
23	that over near the Thorne and Park area?"
24	It probably means Thornden Park.
25	"A No, the south side.
	Q . What were you doing with them in the

1		south side, or where did you see them before?
2		A Hanging out."
3		Do you recall those questions and those answers?
4	A	"Hanging out"?
5	Q	That is what it says.
6	A	I wasn't hanging out.
7	Q	Is that What you said?
8	A	Yes.
9	Q	You were under oath when you said it at the time?
10	A	Yes.
11	Q	Have I read it correctly to you?
12	A	Yes.
13	Q	Line 23:
14		"Q So you knew these fellows before this
15		time, before you saw them in front of the bank
16		that day, is that right?
17		A I didn't know them.
18		Q But you had seen them before?
19		A Yes.
20		Q And can you tell us about how many
21	No.	times you had seen them before?
22		A Oh, I don't know."
23		Do you recall those questions and those answers?
24	A	Yes.
25	Q	Did I read them correctly from your testimony?

1	A	Yes, you did.
2	ନ	When you read this testimony this morning did you tell
3		Mr. Welch there was any mistake?
4	A	No.
5	Q	And you stood by this when you read it?
6	A	Meaning what? What do you mean?
7	Q	You read it and you didn't offer to make any corrections
8		correct?
9	A	Yes.
10	ર	By the way, Mr. Isaac when you testified that you met
11		Mr. Welch and the F.B.I, let's talk about Mr. Welch.
12		When you talked with and mat Mr. Welch at his office
13		did he tell you thathe was going to give you any kind
14		of immunity from prosecution if you testified?
15		MR. WELCH: Objection.
16	. 1	THE COURT: Sustained.
17	A	Pardon?
18	Q	He objected and it was sustained. Let me ask you
19		another question. Mr. Isaac you testified on direct
20		examination this afternoon that this one dude, and I
21		believe you used the word when you referred to my client
22		this young dude came over and said "Hay, will you tap
23		on the window if you see any police because we are going
24		to take off this bank, and you answered correct?
25		THE COURT: Your question is improper in

1		that line.
2	Q	That was the substance of what you said this afternoon?
3	A	Can you repeat that?
4	Q	Did you testify this afternoon and is it your testimony
5		that my client came up to you on the 12th of September
6		about three o'cock and he said, "Hey, Brother" and I
7		may not be quoting you accurately, "Hey, Brother, if yo
8		see any cops will you tap on the window of this bank."
9		And then you said to him 'Why" and he said 'We are go-
10		ing to take it off." Do you recall that that was the
11		substance of your testimony?
12	A	Yes.
13	Q	And then after he told you that, as you say, you then
14		said "yes" you would, didn't you?
15	A	Yes.
16	Q	Don't nod your head. Your answer is "yes"?
17	A	Yes.
18	Q	So you were a lookout?
19		MR. WELCH: Objection.
20		THE COURT: That is calling for a conclu-
21		sion.
22		MR. MICHAELS: Pardon?
23		THE COURT: That calls for a conclusion.
24	BY M	R. MICHAELS:
20	Q	You did agree, did you not?

		1saac - cross	85.
1	A	(Nods head).	
2		THE COURT: Now you may ask him whether	
3		he was promised immunity.	
4	BY	MR. MICHAELS:	
5	Q	Now in line with the questions I just asked you, in	
6		Mr. Welch's conversations with you about this, did he	9
7		ever tell you that you wouldn't be prosecuted for you	ur
8		participation in this incident?	
9	A	I don't know what you mean.	
10	Q	Did he ever tell you that he wouldn't present a case	
11		against you to the grand jury?	
12	A	No.	
	II .		

- Q Did he ever tell you that he wouldn't have you arrested?
- 14 A No.
- Did he ever tell you that he thought you were the lookout?
- 17 A No.
- 18 Q Isn't that what you were?
- 19 A No.
- Q But you did agree to tap if you saw any police?
- 21 A I did.
- 22 Q And then what did you do after you saw these men come
 23 out of the bank with bags, with something in them, you
 24 didn't go to the police, did you?
- 25 A No.

1	Q	You didn't call the police?
2	A	No.
3	Q	You didn't volunteer testimony. You knew what they had
4		done though, didn't you? Is that correct?
5	A	Yes.
6	- Q	What you did was you got on the bus and went downtown?
7	A	Yes, that is what I was doing from the jump.
8	Q	You were going to do what you were going to do anyway.
9		You went downtown.
10	A	Yes.
11	Q	After this time, September 12, 1973, at three p.m., did
12		the F.B.I. ever come to your place of residence, to
13		your home?
14	A	No.
15	વ	No?
16	A	No.
17	Q	Did the Syracuse Police Department ever come to your
18		home?
19	A	The day after.
20	Q	Who was it from the Syracuse Police Department; do you
21		know?
22	Α	I don't know his name.
23	Q	Was he a detective or was he wearing a uniform?
24	Α	Detective.
25	Q	Did he search your house?

1	Α	No.
2	Q	Has anybody ever searched your house?
3	A	No.
4	Q	Let's get back to something else. Now you just recall
5		I read to you portions of your grand jury testimony.
6		Mr. Isaacs I now ask you will you agree with me that
7		what you said under oath at the grand jury about knowing
8		three of them and what you said under oath today about
9 _		knowing only one of them, will you agree with me that
10		you made two different statements under oath?
11	A	No, I won't.
12	Q	Would you like me to read you some more of your testi-
13		mony at the grand jury?
14	A	No.
15	Q	Because you know, do you not, from reading this, that
16		all through your testimony, page after page, you ack-
17 -	-	nowledge you knew all three of them, didn't you?
18	A	I didn't say I knew them.
19	Q	That you had seen them?
20	A	Yes.
21	Q	Okay. What you are saying then, Mr. Isaac, is perhaps
22		you are confused?
23	A	Yes.
24	Q	At which time were you confused? Today or when you
25		were in front of the grand jury?

1	A	Both times
2	Q	Maybe you were also confused when you gave information
3		to the F.B.I. agents; is that correct? Maybe you were
4		confused them?
5	A	No.
6	Q	Is that right?
7	A	No.
8	Q	You were not confused then; is that right?
9	A	Yes.
10	Q	What you said to the F.B.I,, the statements you gave
11		them, that you are sure about?
12	A	Yes.
13	Q	Absolutely positive?
14	A	Yes.
15	Q	Okay. Good. I want you to look at your statement to
16		the F.B.I., exhibit 3503, Page 33 and 34. I want you
17		to read your statement for a minute, please. Read it
18		to yourself please.
19	A	(Reads.)
20	Q	Have you completed reading that statement?
21	А	Yes.
22	Q	Now just so we keep the record straight, the statement
23		listed at Page 33 and 34 of Exhibit 3503, is a state-
24		ment apparently made by you on September 12, 1973, the
25		date of this incident; is that correct?
	1	

1	A	Yes.
2	Q	Correct?
3	A	Yes.
4	Q	You will have to speak up. And when you made that
5		statement you were being interviewed by F.B.I. people;
6		correct?
7.	A	Yes.
. 8	Q	I was not there, was I?
9	A	No.
10	Q	I was not around to cross examine you?
jı	A	No.
12	Q	I wasn't around to cross examine you when you testified
13		before the grand jury, was I?
14	A	No.
15	Q	You also made a statement to the Syracuse Police Depart
16		ment, didn't you? Which you signed. And I show you
17		Exhibit 3505 and ask you if that is a copy of the
18		statement that you made. Do you see your signature
19		on the bottom? Is that your signature on the bottom?
20	A	Yes.
21	Q	Do you see would you read the statement again before
22		I ask you any further questions.
23	A	How much of this do you want me to read?
24	Q	I would like to have you read the whole thing to make
25		sure it is yours. Read it carefully.
	100	

1 A (Reads). 2 Q Okay. Have you read it, sir? A Yes. 3 4 Q On the bottom of that statement that you got in front 5 of you, you see right above your signature --- by the 6 way, that statement was a sworn statement? That was 7 done before anotary public; right? See where it says 8 "Subscribed and sworn to before me this 13th day of 9 September 1973." That is an affidavit; correct? 10 A I suppose so. 11 Q The other statement that you signed before the F.B.I. 12 you just signed it. This one you swore to; correct? 13 A Yes. 14 2 And in fact just before you signed it there was printed 15 language on the sheet of paper which you read and which 16 said "I have read this statement which consists of one 17 page and the facts contained therein are true and correct 18 to the best of my knowledge. I have also been told 19 that swearing to a false statement can make me guilty 20 of a crime." 21 Did you see that when you signed it? 22 A Did I see that when I signed it? 23 Q You read it before you signed it? 24 A I don't remember.

You mean you swore to something without reading it?

25

Q

1	A	Yes.
2	Q	Well you knew you have been around so you knew if
3		you made a sworn statement and the statement is not
4		true, you knew that it is a crime to make a sworn state
5		ment that is false, don't you?
6	A	Yes.
7	Q	And having made that statement, and the statement to
8		the F.B.I. and the grand jury, and then coming into
9		court, are you telling me at no time did Mr. Welch
10		ever tell you that he was giving you immunity to testify
11	Α,	I don't know what you mean.
12	Q	That he wouldn't prosecute you; that he wouldn't charge
13		you with any crimes?
14	А	I didn't do enything.
15	૨	Now did you say I don't recall your direct testimony
16		but did you say that you saw the men, the three men,
17		put their masks on?
18	A	Pardon?
19	Q	Did you say on direct examination that you saw the
20		three men put their masks on before going into the bank
21	A	No.
22	Q	Well did you or didn't you?
23	A	No.
24	Q	You didn't see them put them on?
25	A	No.
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	Isaac - cross 92.
1	Q Do you know whether they had masks on when they came
2	out of the bank?
3	A I can't remember.
4	Q Do you remember this question in your grand jury testi-
5	mony and this answer? Page 21, Line 10:
6 .	"Q Did you look into the bank at all while
7	they were in there?
8	A No.
9	Q Well, when you saw them, do you remembe
10	what they were wearing?
11	A I forgot, now.
12	Q 0.K. Do you remember whether or not
13	any of them had any masks on?
14	A Stocking.
15	Q Stocking masks?
16	A Yes.
17	Q All three of them, or two, or one, or
18	do you remember?
19	A All three of them.
20	Q You know that for sure, all three of
21	them had them on?
22	A I don't"
23	It seems as if you didn't complete your answer.
24	Did all three of them have masks on?
25	A I don't remember.

1	Q	What?
2	A	I don't remember.
3	Q	Why did you tell the grand jury that all three of them
4		had masks on?
5	A	I don't know.
6	Q	why Is that your answer, you don't know/you told them that?
7	A	Yes.
8	Q	Did you realize when you were telling the grand jury,
9		based on what you said to the grand jury, that that
10		grand jury was going to bring in an indictment and
11		ultimately bring these three men before the court?
12	A	No.
13	Q	Did you know when you were before the grand jury that
14		you were to testify accurately before the grand jury?
15	A	No.
16	Q	Didn't someone come up to you and say that you were
17		to tell the truth?
18	A	Yes.
19	Q	Didn't Mr. Welch, because I know Mr. Welch, didn't he
20		come up to you and say "Come on, Alton, you got to
21		tell the truth"; didn't he?
22	A	I don't remember.
23	Q	As a matter of fact between September 12th and today
24		hasn't some attorney come to you and say, "Mr. Isaac"
25		or he might have called you "Alton" didn't he tell you
		State of the state of the sett you

1		
1		that you got to tell the truth?
2	A	Yes.
3	Q	Who? Mr. Welch?
4	A	Yes.
5	Q	Today or before today?
6	A	Before today.
7	Q	Before you testified before the grand jury?
8	A	About that time.
9	Q	Okay. So about the time that you testified before the
10		grand jury Mr. Welch said to you that you got to tell
11		the truth; correct?
12	A	Yes.
13	Q	So what you told the grand jury under oath, as per in-
14		structions from Mr. Welch, you told them what was
15		correct?
16	A	Yes.
17	Q.	So what you are telling us today is incorrect because
18		it is different?
19	A	You know what I said.
20		MR. MICHAEIS: Move to strike out the
21		answer.
22		THE COURT: Strike it out.
23		MR. MICHAEIS: Will you repeat the ques-
24		tion.
25	•	(The Court Reporter repeated the question
		, and depotition

1		
Albana Taran		as above recorded.)
2		THE WITNESS: No.
3 ,	BY ME	R. MICHAELS:
4	Q	Now, Mr. Isaac do you know does the name Craig
5		Brant mean anything to you?
6	A	Who?
7	Q.	Craig Brant. Do you know Craig Brant?
8	A	No.
9	Q	You don't know a Craig Brant. Mr. Isaac where did
30		you first see photographs in connection with this case?
11		In the Syracuse Police Department or the F.B.I.?
12	A	F. B. I.
13	Q	How many did the F.B.I. show you the first time they
14		talked to you?
15	A	Some books.
16	Q	The F.B.I., did they show you books or show you indivi-
17		dual pictures?
18	A	Books.
19	Q.	And what did the Syracuse Police Department show you,
20		books or individual pictures?
21	A	Both.
22	Q	Isn't it a fact when you went to the Syracuse Police
23		Department you were shown just one photograph?
24	X 2	One? I don't get your question.
25		Isn't it a fact when you went to the Syracuse Police
		0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0

1		Department you were shown just one photograph?
2	A	No.
3	ધ	Now do you mean this maybe I am confused. I just
4		want to straighten this out. Isn't it a fact that
5		when you went to the F.B.I. the first time they showed
6		you one photograph?
7	A	One?
8	a	Yes, one.
9	А	No.
10	Q	Lat's see if you recall it now, after reading your
11		testimony. Question at 34, Line 25:
12		"2 Do you remember whether you went to
13	49 7 7 7 1 4 7.	the F.B.I. before you went to the Syracuse
14		Police Station?
15		A No, I was here first.
16		Q You were at the F.B.I. first?
17		A M-m j-m-m."
18		I take it that means "yes"?
19	A	Yes.
20	Q	(Continuing resaing):
21		"Q C.K. You do remember which picture
22		they showed you all by itself?
23		A That one."
24		And then in parenthesis is says you are indicating.
25		Which one?

1		A That one.
2		Q That is No. 2. And do you know that
3		fellow's name, in the No. 2 picture?
4		A I don't know. I can't tell.
5	•	Q Do you know his name? Did they ever
6		tell you his name? Would that be Robert Lee
7		Denson?
8		A Yes."
9		Did you testify at the grand jury that that is what the
10		did?
11	A	I didn't say that.
12	Q	Didn't I read that correctly? Did I misquote this?
13		Would you look and bead it over yourself and tell me if
14		I misquoted.
15	A	No.
16	Q	You were reading along as I read?
17	A	Yes.
18	Q	Did I read to you word for word as it is indicated
19		there?
20	A	Yes.
21	Q	And word for word as it is printed is what you told me
22		you read this morning and said it was okay, and I read
23		off what it says "they showed me one photograph and
24		only one"; is that right?
25	A	I don't know.
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	90.
1	Q Which do you want us to believe, Mr. Isaac. Tell the
2	jury, which you want us to believe?
3	Let the record show there is no answer to the
4	question.
5	THE COURT: Do you want an answer?
6	MR. MICHAELS: No. I don't care.
7	THE COURT: We will recess now until tomor
8	row morning at ten thirty. Don't talk about
9	the case; don't let anybody talk to you about
10	it. Good night.
11	(Whereupon at 3.59 p.m. o'clock the jury
12	retired.)
13	THE COURT: All right. We are in recess.
14	THE CLERK: Court stands in recess until
15	ten thirty tomorrow.
16	(Whereupon at this point a recess was
17	taken to February 14th, 1974 at ten thirty
18	o'clock a.m.)
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at the

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1	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK
2	X
3	UNITED STATES OF AMERICA,
4	- against - : 73-Cr-194
5	19 01 29
6	ROBERT LEE DENSON, Jr.,
7	Defendant.
8	x
9	
10	The trial in the above-entitled matter
11	was continued, pursuant to adjournment, at th
12	United States District Court held in and for
13	the Northern District of New York, at Utica,
14	N. Y., on February 14, 1974, at ten thirty

tion, and a Jury.

o'clock a.m. before HON. LLOYD F. MacMAHON,

United States District Judge sitting by designa

APPEARANCES:

HON.

HON. JAMES M. SULLIVAN, Jr., United States
Attorney for the Northern District of New York,
Federal Building, Syracuse, New York, By:
EUGENE WELCH, ESQ., Assistant United States
Attorney, Of Counsel, appearing in behalf of
the United States of America;

- and -

LEE S. MICHAELS, ESQ., Attorney and Counsellor at Law, Metcalf Plaza, Auburn, New York, Assigned, appearing in behalf of the Defendant. Defendant in person.

THE CLERK: Bring the jury in please.

(At this point the Jury was brought into the courtroom.)

THE COURT: Good morning.

THE JURY: Good morning.

ALTON ISAAC

resuming the stand, having previously been sworn, testified further as follows:

CROSS EXAMINATION (Continuing)

BY MR. MICHAELS:

1	Q	Good morning, Mr. Isaac.
2	A	Good morning.
3	Q	I believe yesterday I was asking you questions about
4		your testimony at the grand jury, and you recall there
5		was some confusion about how many photographs you had
6		been shown. Do you recall that?
7	A	Yes.
8 .	Q	And Mr. Welch called it to my attention after you testi-
9	1,5_10	fied that perhaps your testimony before the grand jury
10		on this particular subject was helped at a later time.
11		Let's get the record straight at this juncture about
.12		what I asked you. There was some confusion about whe-
13		ther you saw one photographs only. Apparently you did
14		see more than one photograph?
15	A	Yes.
16	Q	So the confusion that existed in your testimony yesterda
17		we can forget about that now. Your testimony is that
18		you did see several photographs?
19	A	Yes.
20	Q	Do you recall yesterday that you told me that you had
21		read your grand jury testimony yesterday before you
22		testified?
23	A	Yes.
24	Q	And you agree to that; is that correct?
25	A	Yes.

1	Q	You also told me that you had read the F.B.I. report
2		before you testified?
3	A	Yes.
4	Q	I don't know whether you told me whether you read the
5		statement that you gave to the Syracuse Police, but you
6		did read it in court yesterday; didn't you?
7	A	Yes.
8	Q	Now, Mr. Issac what I want to know is this. Today is
9		February 14th. The date of this incident was alleged
10		to be September 12, 1973; is that right?
11	A	Yes.
12	Q	About five months ago; correct?
13	A	Yes.
14	Q	Would it be a fair statement to say that in the five
15		months that have elapsed there are certain things that
16		you have forgotten and that is why you had to re-read
17		this testimony and re-read these reports, to refresh
18		your recollection on cartain events?
19	A	Yes.
20	Q	Would it also be a fair statement to say that your
21		recollection of what you observed and what you saw was
22		best, was most accurate when you were first interviewed?
23	A	I don't know what you mean.
24	Q	In other words on September 12th you were first inter-
25		viewed by the F.B.I.?

ì	A	Yes.
2	Q	And then 1 ar by the police. Would it be a fair state
3	•	to say that your recollection of what you saw on
4		Lexington and Cherry Street that day, what you heard,
5		what you observed, was better then than it is now?
6	A	Yes.
7	Q	It was clearer then?
8	A	Yes.
9	Q	It was more accurate then?
10	A	Yes.
11	Q	By the way I think you indicated in your first state-
12		ment to the F.B.I. that when this man came up to you ar
13		talked to you outside the bank, I think you used the wo
14		in the statement, that/were standing by a railing?
15	A	Sitting.
16	Q	Well didn't you say standing? Let me refresh your
17		recollection on that subject to see if we can get it
18		clear. Didn't you say in the second paragraph of
19		your statement, located on Page 33 of the F.B.I. re-
20		port, didn't you say as follows:
21		"About three o'clock on this day I stood
22		at the corner of Lexington and Cherry Streets
23		in Syracuse, waiting for a bus. I was in
24		front of the First Trust & Deposit. Nearby
25		on Lexington stood three negro males. They

	approached the front of the bank. The men
	were described as follows."
	Now did you say sitting?
A	Well whoever wrote that didn't know what they were
	writing.
Q	But you did sign it though, didn't you?
A	Yes.
Q	In fact you were quite confused that day because you
-2	signed one statement for the F.B.I. that said "stood"
	didn't you?
A	Yes.
Q	And you signed another statement at the Syracuse Police
	Department just the next day and you said "sitting";
	is that right?
А	Yes.
Q	Now when you which was it, were you sitting or
	standing?
A	Sitting.
Q	So when you signed that statement in which you said
	you were standing, or stood, that is incorrect?
A	Yes.
Q	And when that statement was read to you word for word
	by Mr. Welch before the grand jury, at the end of that
	statement when he said to you "Is that accurate" your
	Words were "yes"?
	Q A Q A Q A Q A

1	A	Yes.
2	Q	You didn't stop him and say, "Mr. Welch, you made a
3		mistake. I was sitting, not standing"?
4	A	Yes.
5	Q	So you did in fact tell the grand jury something under
6	9.10	oath that you were not sure of; is that right?
7	A	Yes.
8	Q.	When these three males came to you, I believe that you
9		now acknowledge that regardless of what you said under
10		oath before the grand jury that in fact you were sitting
11		on the rail; is that right?
12.	A	Yes.
13	********	MR. MICHAELS: May I see Exhibit 1, please
14	-	(Clerk hands Exhibit 1 to Mr. Michaels.)
15	Q	Is this showing you Exhibit 1, is that in evi-
16		dence? I think so. Exhibit 1, does that railing
17		show in that photograph? Is that the railing on the
18		left side?
19	A	Yes.
20 21	Q	And that railing appears to be probably about three ·
22		feet, three and a half feet off the ground where the
23		bar goes across it is. So that you are sitting there.
24		You are a man of medium stature. How tall are you?
25	Α	Five six.
	Q	So a man of your stature, of five six, it wouldn't

1		make any difference in the height of your head whether
2		you were sitting with your buttocks on that bar or
3		whether you were standing up. Being a short person
4		your head would be about the same height anyway?
5	A	Yes.
6	Q	And these three black or negro males came up to you
7		while you were sitting on that bar; is that correct?
8	A	Yes.
9	Q	Then you described them in your statement to the F.B.I.
10		and you described negro'male No. 1. I believe you
11		recall negro male No. 1 was the man you ultimately
12		picked out as my client?
13	A	Yes.
14	Q	Because "Negro Male No. 1" you said came up and started
15		to talk to you?
16	A	Yes.
.17	ବ	And you described his height as six eight or six seven
18		inches?
19	A	Yes.
20	Q	Do you know how tall six seven or six eight inches is?
21	А	No.
22	Q	Can you divide sixty-seven or sixty-eight inches by
23		twelve?
24	А	No.
25	Q	You know there are twelve inches in a foot?

l	А	Yes.
2	Q	You know that sixty inches is five feet?
3	A	Yes.
4	Q	In other words you are about sixty-seven inches tall?
5	A	Yes.
6	Q	And this was a statement that you made in the most
7		accurate point of time that you can recall making.
8		You said he was mixty-seven or sixty-eight inches; is
9		that correct?
10	A	Yes.
11	Q	And then the next day you went down to the Syracuse
12		Police Department and you referred to the person you
13		ultimately picked out as my client. Again in that
14		statement you referred to him as the "first dude" did
15		you?
16	A	Yes.
17	Q	You said the first dude was is this correct, you
18		said this under oath?
9	A	I was.
20	Q	You said that the first dude was about five seven to
21		five eight tall, and weighed about one hundred fifty
22		or one hundred sixty pounds. Is that what you said?
3	A	Yes.
24	Q	So on the night you were first interviewed you said
5		he was five foot eight or five foot seven?

A	Yes.
Q	And on the next day you said five foot seven or five
	foot eight?
A	Yes.
Q.	When these three males came up to speak to you you
	indicated one of the other males was five foot seven?
А	Yes.
Q	And the other male who didn't talk to you, you indicated
	was six feet tall?
А	Yes.
Q	So in other words one of them was tall?
A	Yes.
Q	And the other two were short, like you; is that correct?
A	Yes.
Q	One was a big tall fellow and the other two were short;
	that is correct? Am I right? That is what your
	statement indicates?
A	Yes.
Q	Now you did tell me you were five foot seven?
A	Yes.
Q	Five foot six.
	MR. MICHAELS: Would you mind stepping
	off the witness chair. And Mr. Denson, will
	you stand up and take your shoes off and stand
	in your stocking feet.
	Q A Q A Q A Q A Q A

ı		With the Court's permission can I ask the
2		witness to stand down from the chair?
3		THE COURT: Surely.
4	BY M	R. MICHAELS:
5	Q	Come on over here, Mr. Isaacs. Why don't you stand
6		next to Mr. Denson. How tall do you think he is now?
7		Take a look at him. Do you think he is taller than
8		five foot seven?
9	A	Yes.
10	Q	Do you think he is taller than six feet?
11	A	Yes.
12	Q	You have to look up to him a good bit?
13	A	Yes.
14	Q	You don't meet him at the same eye level?
15	A	No.
16	Q	All right. Thank you very much.
17	A	(resumes witness chair.)
18	Q	Now, Mr. Isaac did you say yesterday that the man that
19		you spoke to, who you pointed out in the courtroom, did
20	-	you say he was wearing a moustache when you were talking
21		to him?
22	A	No.
23	Q	Well he wasn't?
24	A	No.
25	Q	The photograph that you picked out though had a man with

1		a moustache?
2	A	No, not that I can remember.
3	Q	Let's take a look and see. Isn't this the photograph
4		that you picked out when you looked at photographs
5		before the grand jury?
6	A	Yes.
7	Q	The man has got a moustache, doesn't he?
8	A	Yes.
9	Q	He has got a moustache now?
.10	A	Yes.
11	Q	Are you really sure you saw Mr. Denson?
12		MR. WELCH: Objection.
13	Service Services	THE COURT: I think that is argumentative.
14	Q	I show you anotherphotograph you looked at before the
15		grand jury, a photograph which was then marked as
16		Number 3. Did you look at that photograph too?
17	A	Did I?
18	Q	Yes.
19	A	Yes.
20	Q	Do you know how tall the man in that photograph is?
21	A	No.
22	Q	Will you look at that and tell me if that is not the
23	•	same man that you picked out in Photograph No. 2?
24	A	No.
25	Q	It isn't?

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A No.

I think we can wrap this up in a couple of questions,
Mr. Isaac. I think you will acknowledge, will you
not, that you have admitted now in Court that you have
testified to one fact under oath before the grand jury,
and that was the fact that you had seen all three of thes
black males earlier; is that right?

A Yes.

- Q And that you not only testified before the grand jury but you testified over and over about that; correct?
- A Yes.
- Q And you now testified, and you now testify in Court that you only saw one, correct, before hand? That is your testimony now?
- A No.
- Q Which is your testimony? I thought you testified yesterday that you had only seen one?
- A I didn't say that.
- All right. You have also testified that you made a statement to the Syracuse Police Department in which you described the man who talked to you as five foot seven or five foot eight, one hundred fifty, one hundred sixty pounts. By the way I forgot to ask you, how much do you weigh?
- A One hundred forty.

1	. G	And you also testified when you made a statement to
2		the F.B.I. which you confirmed in the grand jury,
3		which at the time when your recollection of this was
4		most accurate, that this man was five foot seven to
5		five foot eight; right?
6	A	Yes.
7	Q	And in fact the other black males that approached you
8		on the street, one was tall and the other two were
9		short?
10	A	Yes.
11	Q	And the tall one was not my client. The tall one
12		was someone else?
13	A	Yes.
14	Q	And he is, you just went over and stood next to him
15		and he was four or five inches higher than you?
16	A	Yes.
17	Q	Which makes him six foot two?
18	A	Yes.
19	Q	Can you give me any reason at all why I should believe
20		this
21		MR. WELCH: Objection.
22		THE COURT: Yes. Put your question.
23		MR. MICHAEIS: I have no further ques-
24	196	tions.
25		

1	BY MR. WELCH:
2	Q Now, Mr. Isaac, do you recall yesterday afternoon when
3	Mr. Michaels cross examined you he read to you some
4	questions and answers from your grand jury testimony?
5	A Yes.
6	Q Specifically do you recall him reading these questions
7	and answer to you on Page 21:
8	"Q Did you look into the bank at all
9	while they were in there?
10	A No.
11	Q Well, when you saw them, do you remen-
12	ber what they were wearing?
13	A I forgot, now.
14	Q O.K. Do you remember whether or not
15	any of them had any masks on?
16	Q Stocking.
17	Q Stocking masks?
18	A Yes.
19	Q All three of them, or two, or one,
20	or do you remember?
21	All three of them."
22 -	Do you remember going over those questions with Mr.
23	Michaels yesterday?
24	A Yes.
25	Q Now that was on Page 21 of the transcript. You remembe

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1		being asked further questions in that same grand jury
2		later on about those masks?
3	A	Yes.
4	Q	Do you remember being asked these questions and giving
5		these answers:
6		"Q O.K. Now, before they went into the
7		bank I have a confusion in my mind
8		before they went into the bank, were they
9		wearing these marks, or just afterwards, or
10		both times?
11		
12		A When they got ready to go in?
13		Q When they got ready to go in.
14		A Yes.
15		Q And did you see them put the masks on?
		I didn't hear you.
16		A Yes.
17		Q And so that you saw them before they
18		put the masks on, is that right?
19		A Yes. What do you mean?
20		Q Wehl, I don't know and that is what I
21		am trying to find out. You said that they
22		came up to talk with you while you were wait
23		ing for the bus?
24		A Yes.
25		O And when they first came up at that

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1		time did they have masks on that day?
2		A No."
3		Do you remember being asked those questions and giving
4		those answers?
5	A	Yes.
6	Q	Mr. Isaac you remember testifying yesterday that the
7		man who you testified is Robert Lee Denson came up
8		this close (indicating) three feet away from you
9	12 112	and asked you to knock on the window?
10	A	Yes.
11	Q	When Mr. Denson was three feet away from you was he
12		wearing a mask?
13	A	No.
14	Q	Now Mr. Isaac did you knock on the window?
15	A	No.
16	Q	Did you talk to any of those three men at any time
17		after the bank robbery that day?
18	A	No.
19	Q	Did you ever get any money from any of those three men
20	A	No.
21 22	Q	Did they ever offer you any money?
23	A	No.
24	Q	Mr. Isaac at this time is there any doubt in your mind
25		that that man there (indicating defendant) was the
		man who came up and asked you to knock on the window

1		if you saw any cops coming when they were going to knock
2		off the bank?
3		MR. MICHAELS: Objection.
4		THE COURT: Overruled.
<u>.</u> 5	Q	Tell the ladies and gentlemen of the jury if there is
6		any doubt in your mind that that is that man?
7	A	No doubt.
8		MR. WELCH: I don't have any more questions.
9	8 pt	RECROSS EXAMINATION
10	BY M	R. MICHAELS:
11	Q	To go back to this, and you read your testimony, what
12		it all comes down to, when you were testifying before
13	1904 L. 1	the grand jury you said one thing, what Mr. Welch wanted
14		you to.
15		MR. WELCH: Objection.
16		THE COURT: Sustained.
17	Q	You did say two different things before the grand jury
18		did you not?
19		THE COURT: Sustained.
20	Q	Were you confused when you testified before the grand
21		jury?
22		MR. WELCH: Objection, Your Honor.
23		THE COURT: Overruled.
24	Q	Were you confused?
25	A	A little.

1	THE COURT: All right.	
2	(The following took place in or	en court
3	before the jury.)	
4	MR. WELCH: Government calls Ke	lvin
5	Broadwater, Your Honor.	
6		
7 8	KELVIN BROADW	ATER
9	called as a witness in behalf of the	Government
10	being first duly sworn, was examined	and
11	testified as follows:	
12	DIRECT EXAMINATION	
13	BY MR. WELCH:	
14	Q Mr. Broadwater where do you live, or where di	d von live
15	in September 1973?	-)
16	A 1905 South State Street.	
17	Q Is that in the City of Syracuse, New York?	
18	A Yes.	
19	Q Do you know where the First Trust & Deposit E	est Side
20	Branch bank is located at Cherry and Lexington	!
21	at Syracuse, New York?	
22	A Yes sir.	
23	Q Directing your attention to September 12, 1973	3. at three
24	p.m. or approximately thereabouts, were you in	I
25	branch bank at Cherry and Lexington?	. 01.30

1	A	Yes	sir.

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- Q What were you doing in that branch bank? Tell us what you did and what you saw.
- A I don't understand. What you mean by this here?
- Q Did you tell us just now that you were in that branch bank at about three o'clock on September 12, 1973? Is that correct?
- A Yes, sir.
- Q What were you doing in that branch bank at that time?
- A I taken part in a robbery in that bank at that time.
- Q Who else took part in that robbery at that time? Do you know Robert Lee Denson?
 - A Yes, I know him.
 - Q Did he take part in that robbery with you at that time?
 - A I take the Fifth Amendment on that.

THE COURT: The Court instructs you that you have been granted immunity by the Attorney General and that the government cannot prosecute you or use your testimony to prosecute you for any crime -- use your testimony on this trial to prosecute you for anything that you say, except of course if it is a deliberate lie to the Court, and the government can prosecute you for perjury. And if you refuse to testify the Court has the power to, and will hold you in contempt

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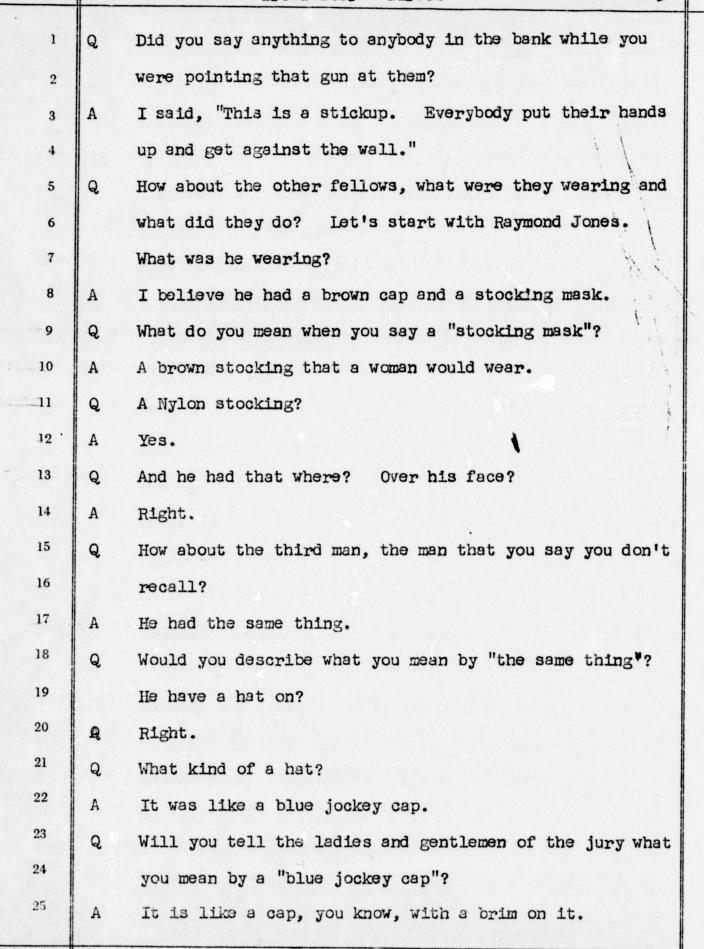
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1		both civilly, and incidentally not civil
2		contempt and you will also be subject to
3		prosecution for criminal contempt. So I
4		direct you to answer the question.
5		THE WITNESS: No.
6	BY M	R. WELCH:
7	Q	The answer is "no"?
8	A	No.
9	Q	Robert Lee Denson did not partisipate in the robbery?
10	A	No.
11	-Q	Who else did participate in the robbery?
12	A	Jones.
13	Q	Raymond Jones. Anyone else?
14	A	There was the get-away driver that was used to drive
15		also.
16	Q	How many people actually went inside the bank?
17 .	A	Three.
18	Q	You went inside the bank; is that correct?
19	A	Yes.
20	Q	Did Raymond Jones go inside the bank?
21	A	Yes.
22	Q	Who was the third person to go inside the bank?
23	A	I don't know his full name because when I was going
24		to Jones Jones brought this guy to me. I don't
25		know him.

-1 .	Q Did Jones introduce him to you with any name?
2	A Jones gave me a name but I don't remember you know
3	it was not his right name. I don't know what was his
4	name.
5	Q Did he have a nickname? What did you call him?
6	A That was the first time I ever seen him.
7	THE COURT: What did you call him.
8	THE WITNESS: It was some type of religiou
9	name.
10	BY MR. WELCH:
11-	Q When you went in to rob the bank what were you wearing?
12	A I was wearing shades.
13	Q Shades? You mean sunglasses?
14	A Right.
15	Q You have anything on your head besides sunglasses?
16	A I had a brown knitted cap.
17	Q Did you have anything covering your face, besides the
18	shades?
19	A No.
20	Q When you went in the bank were you armed?
21	A Yes, sir.
22	Q With what?
23	A I had a sawed-off double barrelled shotgun.
24	Q Did you point it at anyone in the bank?
25	A Yes. sir. I believe so.

Yes, sir, I believe so.

A



It has a brim on the front? 1 Q Yes. A Do you know what color it was? Q. 3 A No. Do you know whether it was light or dark? 5 No. 6 A 7 Was this third fellow or Jones carrying any weapon? Q. 8 A No, sir. Tell us exactly what each of the three of you did? 9 Q 10 did you do when you walked into the bank? 11 Well I was in front by Jones, and he asked me did I want A 12 to make some money with him. He had this other person 13 with him. I was home at the time and they had come to 14 get me and asked me did I want to make some big money. 15 Q The third fellow was with him when he came to get you? 16 A Yes. 17 All right. Continue please. Q 18 And he said 'We will see if we can get a car." He had a 19 car located and the car was being used, and he had a 20 shotgun and he said that was being used. And he had 21 stockings and rubber gloves and those were being used. 22 This is Raymond Jones talking? 23 I asked him where the bank would be located. 24

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told me on Cherry Street and Lexington Av. We walked

a couple of blocks and pick up the car. We went on to

1		the bank and we lay in front of the bank about a half
2		hour or so. We figure out whether it was the right time
3		or not.
_ 4	Q	Well what would be the right time? Wat time were you
5		waiting for?
. 6	A	Streets was busy. If anybody was in the street; how
7	- /	many people was in the bank; he already knew how many
8		people was in the bank.
9	Q	Who was this that is talking?
10	A	Jones. He had knew how many people was in the bank and
11		how they were going to do it.
12 .	Q.	That morning when you first met Jones and this third
13	4.14	fellow, at any time that morning did you see Bobby Lee
14		Denson, Jr.?
15	A	No.
16	Q	At the time that you were at the bank was Bobby Lee
17_	Property of	Denson Jr. there, in the neighborhood?
18	A	No.
19	Q	After the bank robbery was Bobby Lee Denson around at
20	•	any time after the bank robbery?
21	A	No.
22	Q	Did you see Bobby Lee Denson, Jr. on September 12th at
23		all?
24	A	No.
25	Q	You are testifying now that at no time on September 12,
	li .	

1	1973 did you see Bobby Lee Denson?
2	A No.
3	Q "No," that is not your testimony? I just want to get
4	it clear. On September 12, 1973, were you at all with
5	Bobby Lee Denson at any time that day?
6	A No.
7	THE COURT: Do you know Bobby Denson?
8	THE WITNESS: This is him, right here. (In-
9	dicating defendant.)
10	THE COURT: How long have you known him?
11	THE WITNESS: Probably about six years or
12	so.
13	THE COURT: Is he a friend of your's?
14	THE WITNESS: Not a good friend. But I
15	have seen him before. Played basketball with him
16	before in different areas.
17	BY MR. WELCH:
18	Q Which one of those different areas would Bobby Denson
19	have been playing basketball in?
20	A Well, you know, it is a number of years or so. Like
21	North Park; Wilson Park; Thornden Park.
22	Q Thornden Park? Is that what you said? I didn't hear
23	you.
24	A This is over a number of years I have seen him.
25	Q And was Thornden Park one of the places that you have

	- 11	
ì		seen him play basketball?
2	A	Probably was so.
3	Q	Now after this bank robbery where did you go?
4	A	I went home.
5	Q	Where is home?
6	A	1906 South State Street.
7	Q	How about the other two fellows?
. 8	A .	Well they got in the car and left. And told me they
9	4 ****	would see me later on, you know, until they got rid of
10		the car.
11	Q	And did they see you later on?
12	A	No.
13	Q	What did you do after you got home?
14	A	Well I left I had changed clothes and I left and
15		the guys had not come up and picked me up or nothing
16		and I walked around, I went to this bar and I stayed
. 17		inside the bar well, until about eight thirty or so.
18		Then I left I got a ride and I went back home.
19	Q	Where is this bar that you went to?
20	A	It is located on Cortland Avenue.
21	Q	Do you know the name of it?
22	A	312 Club.
23	Q	312 Club on Cortland Avenue?
24	A	Yes.
25	Q	Did you see anybody there that you know?

1 I don't know their full names. Nicknames and specific A 2 names. About what time of the day was that? 3 Q 4 Approximately eight o'clock. A . 5 Do you recall, did you go right to this bar from your Q 6 house? 7 No, I walked in through the area down Midland Ave., A 8 West Castle Street, you know, and went around to 9 Bellevue Avenue because ---10 Go ahead and finish your answer. 11 --- because I figured I probably see them in the area A 12 somewhere. 13 Q. See who? 14 Jones and this other guy. A 15 Do you recall the other guy's name? Q 16 A No. It was just some religious name. 17 Then you went to this 312 Club on Cortland Avenue, you Q 18 said? 19 A Yes. 20 Who did you see there? Q 21 A There was a couple of people I know there. A girl 22 named Mabel; a guy named "Mitch" and a guy named 23 Sherman. 24 Q Do you remember any of their last names? 25 A One guy name Sherman Snyders and the girl's name was

1		Mabel Tamsel(?). I don't know Mitch's last name.
2	Q	Would you see Sherman Snyders and Mabel at the 312 Club?
3	A	Right.
4	Q	And you saw them at about eight o'clock that night?
5	A	Yes.
6	Q	Then you said something about catching a ride. With
7		whom did you catch a ride?
8	A	I had money in my pocket a few dollars and I asked
9 .		Sherman did he know possibly somebody could give me a
10		ride home. He asked this guy I don't know the name
11		but I paid him a dollar. He took me home to 1906
12		South State Street. The time I got in the car the
13		Syracuse Police had pulled over and has the streets
14		like blocked up and said I was under arrest.
15	Q	When you were driven to your home at 1906 who else was
16		in the car?
17	Α	These were older people. I don't really know their
18		names. Guys about 38.
19	Q	So do you remember what kind of acar it was?
20	Α	It was a blue no, it was a Green Ford or something,
21		or blue or something.
22	Q	But you don't recall who the people were who gave you
23		the lift?
24	A	No. I had seen him before. Seen him about three or fo
25		times, but I never did know the names or enything.

	Broadwater - direct 132.
1	MR. WELCH: Would Your Honor indulge me
2	for one moment please?
3	THE COURT: Who carried out the money from
4	the bank?
5 -	THE WITNESS: Jones and this other guy.
6	THE COURT: How much?
7	THE WITNESS: I don't know. I never really
8	ever did see I seen the money but I could not
9	tell you how much it was.
10	THE COURT: What did you do with the money?
11	THE WITNESS: I don't know, because they
12	shot from the bank directly to my house and I
13	got out of the car.
14	THE COURT: Did you divide the money?
15	THE WITNESS: No.
16	THE COURT: Did you get any of it?
17	THE WITNESS: No, sir.
18	THE COURT: Who got it?
19	THE WITNESS: Pardon me?
20	THE COURT: Who got the money?
21	THE WITNESS: I don't know who have the
22	money.
23	THE COURT: What about the fellow that you
24	didn't know, did he take any of the money?
25	THE WITNESS: No.

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1	THE COURT: He didn't take any of the
2	money?
3	THE WITNESS: No. I don't know.
4	
	THE COURT: What about the other fellow,
5	Jones, did he have the money?
6	THE WITNESS: I reckon they do have the
7	money.
8	THE COURT: Jones has the money?
9	THE WITNESS: I believe so. They had
10	the money.
11	THE COURT: You ever go to him and ask for
12	your share?
13	THE WITNESS: No.
14	BY MR. WELCH:
15	Q So have you told us all the places that you went from
16	the time you went from the bank robbery to the time that
. 17	the police picked you up? You tell us you told us
. 18	about the bar and then back home again. Any other
19	places?
20	A I didn't hear you.
21	Q Have you told us all the places to which you went after
22	the bank robbery?
23	A Right.
24	Q Were you ever on Midland Avenue that day after the
25	bank robbery?

1	A	Right.			
2	Q	You were. What were you doing on Midland Avenue?			
3	A	I believe I was, you know, going through the area, you			
4		know. Walking through the area.			
- 5	Q	Was anybody else with you when you walked through that			
6		area?			
7	A	No.			
8	Q	How about Bobby Lee Denson, was he with you then?			
9	A	No.			
10	Q	He was not with you then?			
11	A	No.			
12	Q	What did you do while you were on Midland Avenue?			
13	A	I was looking for the two guys at that time.			
14	Q	Did you find them there?			
15	A	No.			
16	Q	Did you get into a car on Midland Avenue?			
17	A	Pardon me?			
18	Q	Did you get into a car on Midland Avenue?			
19	A	No.			
20	Q	Did you talk to anyone while you were on Midland Avenue?			
21	A	I don't believe I did.			
22	Q	Mr. Broadwater when you were arrested were there any			
23		agents of the F.B.I. there?			
24	A	I am not sure, because I don't know who they was, you			
25		know. There was about five or six, maybe. Maybe ten			

1		of them.
2	Q	Did they tell you what you were arrested for?
3	Α	Yes. I guess the young guy who was working for the
4		Police Department, he put the handcuffs to me and put
5		me in the car.
6	Q	They tell you what you were arrested for?
7	A	Yes.
8	Q	What did they tell you?
9	A	I said at the time I didn't know nothing about this here
10	Q	You denied being involved in it?
11	A	Right.
12	Q	You give any statements to any@ne?
13	A	No.
14	Q	At any time did you ever tell anybody the name of the
15		third guy?
16	A	No, because I never knew the third guy.
17	Q	Now the Judge just told you that you are cloaked with
18	100	immunity for your testimony today. Is that correct?
19		Did you understand that.
20	Q	Yes, I understood what he was saying.
21	Q	Were you ever charged with this after you were arrested?
22	A	Pardon me?
23	Q	Were you ever indicted for this bank robbery?
24	A	The bank robbery?
25	Q	Yes.

1	A From what my lawyer said, I was.			
2	Q Did you ever appear in federal court in regards to the			
3	bank robbery?			
4	A Right.			
5	Q What is the status of that case now?			
6.	A I hear you but I don't understand what you are saying.			
7	THE COURT: You can lead him.			
8	Q Mr. Broadwater, didn't you appear in this court about a			
. 9	week ago and enter a guilty plea in this case?			
10	A Right.			
,11	Q So the immunity is only as to using this testimony			
12	against you at a later date, but you are not complete-			
13	ly immunized for the crime. You were prosecuted for			
14	the crime?			
15	A Right.			
16	Q Have you been sentenced yet?			
17	A No, sir.			
18	Q Since you have been testifying, do you recall ever			
19	seeing Robert Lee Denson on September 12, 1973, at any			
_* 20	time on that day?			
21	A Not that I recall, on that day.			
22	MR. WELCH: I have no further questions.			
23	Thank you, Your Honor.			
24	MR. MICHAELS: No questions.			
25	THE COURT: You are excused.			

1	calling of the witness. I realize this was
2	not done in bad faith.
3	THE COURT: Not only that there has been
4	no testimony on that up to this point,
5	MR. MICHAELS: Okay.
6	MR. WELCH: Thank you.
7	(The following took place in open court
8	with the jury present.)
9	MR. WELCH: United States called Mr.
10	Douglas S. Bullock to the stand.
11	
12	DOUGLAS S. BULLOCK
13	called as a witness in behalf of the Government
14	being first duly sworn, was examined and testi-
15	fied as follows:
16	DIRECT EXAMINATION
17	BY MR. WELCH:
18	Q Mr. Bullock keeping your voice up good and loud so all
19	these people can hear you, will you tell us how old you
20	are?
21	A 22.
22	@ 22. And how are you employed?
23	A I work for my father in a service station.
24	Q Where is that service station located?
25	A 1325 mixR East Fayette Street.

1	Q	1325?			
2		THE COURT: 1325 what?			
3		THE WITNESS: East Fayette Street.			
4		THE COURT: Syracuse?			
5		THE WITNESS: Yes.			
6	BY M	BY MR. WELCH:			
7	Q	Were you so employed on September 12, 1973?			
8	A	Yes, I was.			
9	Q	On September 12, 1973, did you know Robert Lee Denson,			
10		Jr.?			
11	A	Yes.			
12	Q	Did you see him that day?			
13	A	Yes sir.			
14	Q	Will you tell the ladies and gentlemen of the jury where			
15		you saw him and what you saw him do?			
16	A	I saw him that day at the service station.			
17	Q	At about what time?			
18	A	I don't remember exactly the time.			
19	Q	Was it morning or afternoon or evening?			
20	A	It was in the afternoon.			
21	Q	Early afternoon or late afternoon?			
22	A	Late afternoon.			
23		THE COURT: Wat it still daylight?			
24		THE WITNESS: Yes sir, it was still daylight.			
25	ର	But late afternoon?			

1	A	I don't know exactly the time but it was later afternoon		
2	Q Mr. Bullock do you remember being interviewed by an			
3		agent of the F.B.I.?		
4	A	Yes.		
5	ચ	If I show you a piece of paper regarding that interview		
6		would it help you refresh your recollection as to what		
7		time it was?		
8	A	Yes it would.		
9		MR. WELCH: May I approach the witness, Your		
10		Honor.		
11		THE COURT: Yes.		
12	BY M	R. WELCH:		
13	Q.	Mr. Bullock I am showing you two pieces of paper, and		
14		in the left hand corner there is an indication of "Inter		
15	a same	view 9/14/73." Directing your attention to the bottom		
16		paragraph could you just read that to yourself.		
17	A	(Reading) "Interview		
18	ର	To yourself, please.		
19	A	(Witness peruses documents.)		
20	ચ	Mr. Bullook now that you have had an opportunity to read		
21		that paragraph of that document, did that refresh your		
22		recollection of the question I asked you?		
23	A	Yes.		
24	Q	About what time of the day was it that you saw Mr. Densor		
25		at the service station?		

1	A It was around like say six o'clock.		
2	Q What did you and he do? You have any conversation with		
3	him at that time?		
4	A Yes, he came in and asked me was I still selling my car.		
5	Q I didn't hear you.		
6	A. He came in and asked was I still selling my car.		
7	Q Continue with the conversation.		
8	A And I told him "yes". And he asked me was I still asking		
9 .	the same price, and I said "yes".		
10	Q What was that price?		
11	A Two thousand dollars.		
12	THE COURT: Had you talked to him about		
13	selling your car before?		
14	THE WITNESS: He had asked about it before,		
15	yes.		
16	THE COURT: When?		
17			
18	THE WITNESS: Maybe two or three weeks be-		
19	fore.		
20	THE COURT: He didn't buy it at that time?		
21	THE WITNESS: No.		
22	THE COURT: Did he say why?		
23	THE WITNESS: No, he didn't say why.		
24	BY MR. WELCH:		
25	Q All right. On that date, September 12th, about five or		
	six o'clock in the afternoon did he buy the car that day?		

1	A	Yes.	<i>a</i> .
2	Q	How did he pa	y for the car?
3	A	Cash.	
4	Q	And how much	did he pay for the car?
5	A	Two thousand	dollars.
6	Q	Two thousand	dollars in cash?
7	A	Yes.	
8			THE COURT: Bills or currency?
9			THE WITNESS: Money.
10			THE CCURT: Do you remember what the demomin
11		ations	of the bills were?
12			THE WITNESS: No. I think they were tens
13		and two	enties.
14	BY M	R. WELCH:	
15	Q	When he arri	ved at the station did you see him arrive
16		at the stati	on?
17	A	Well when I	seen him he was walking outside the yard,
18		approaching	me. He was coming up Fayette Street, near
19		the pumps.	
20	Q	Was anyone w	ith him?
21	A	No one.	
22			MR. WELCH: If Your Honor please, I have no
23		furthe	r questions of this witness.
24			THE COURT: Had you known Mr. Denson for
25		some t	ime?

. 1	THE WITNESS: Yes I had, Your Honor, known
2	him before.
3	THE COURT: How long?
4	THE WITNESS: I knew him maybe three or four
5	years.
6	THE COURT: All right.
7	(Document marked as Exhibit 3506, being
8	statement of the witness to the F.B.I.)
9	THE COURT: Where did he take the money
10	from?
11	THE WITNESS: From his pocket.
12	THE COURT: Did he have any other money?
13	THE WINNESS: When he pulled out the money
14	he pulled out the exect amount.
15	CROSS EXAMINATION
16	BY MR. MICHAELS:
17	Q Mr. Bullock, looking at 3506, which is the statement Mr.
18	Welch handed to you to refresh your recollection; is that
19	right?
20	A Yes.
21	Q You did indicate that Mr. Denson had been in several times
22	asking about this car?
23	A Yes.
24	Q And he indicated his interest in the car?
25	A Yes.

	Hallock - Cross - February 140
ì	Q And you told him all along the car was \$2,000.?
2	A Yes.
3	Q And that was your firm price?
4	A Yes.
5	Q So if somebody wanted to buy it they would come in with
6	two thousand dollars?
7	A Yes.
8	MR. MICHAELS: Thank you.
9 .	MR. WELCH: Nothing further, thank you.
10	THE COURT: What kind of a car was it?
_11	THE WITNESS: It was a '71 Chevrolet. REDIRECT EXAMINATION
12	BY MR. WELCH:
13	Q Can you describe that car to us?
14	A It was a beige color with brown vinyl top.
15	Q Two door or four door?
16	A Two door.
17	THE COURT: Sedan?
18	THE WITNESS: Yes.
19	Q Do you know a Mr. Michael Cohen?
20	A Yes I do.
22	Q Did you see him at the station about five or six o'clock
23	on the day that Mr. Denson was there?
24	A I seen him earlier.
25	Q. About what time of the day was that?
	A That might have been around twemve or so.

BY MR. WELCH:

24

25

Q Mr. Savage how are you employed?

I am a special agent with the Federal Bureau of Investiga 1 A tion. 2 Were you so employed on September 20, 1973? 3 A 4 Yes, I was. Directing your attention to September 20, 1973, in the 5 course of your duties as a special agent with the F.B.I. 6 you /have occasion to see Mr. Robert Lee Denson, Jr.? 7 8 A Yes, I did. What were the circumstances of seeing Mr. Denson? You 10 see him on the street? 11 A Pardon me? Tell the ladies and gentlemen of the jury what it was? 12 Q 13 He was being transferred to our custody by special agents A 14 of the Federal Division. 15 When you saw him at that time do you recall what he was Q 16 wearing? 17 A Yes, I do. 18 Q Tell the ladies and gentlemen of the jury what he was 19 wearing? 20 A He was wearing a light cream color cap and light brown 21 leather jacket. 22 Q Can you describe the car any more than a light color or 23 cream color cap? 24 It appeared to be of a cloth material; a so-called, I A 25 believe it is described as an apple cap, the top of which

	11		
1		can snap down at the brim.	
2	Q	It has a brim?	
3	A	Yes.	
4	Q	Long brim or short brim?	
5	A	A short brim.	
6	Q	What else did he have on that day?	
7	A	A blue sport short, a blue print sport shirt; grey	
8		work slacks with pony(?) type cuffs; he had white sneake	rs
9	To Cala	high sneakers that came above the ankle; the high-rise	
10		or high type sneakers.	•
11	Q	Do you recall what he had in his personal possession that	
12		day?	
13	A	Yes. We received from the agents to whom he had pre-	
14		viously been in custody an envelope containing his per-	
15		sonal effects.	
16	Q	Tell us what was in those personal effects.	
17	A	Yes. Approximately twelve dollars in U.S. currency and	
18		some change; a wallet containing a small piece of paper,	
19		with a note and telephone number. I believe there was	
20		a Selective Service card in the wallet; there was a	
21		watch and chain pendant; there were two pay stubs from	
22		Ford Motor Company.	
23	Q	Pay statements?	
24	A	Statements of earnings I believe was printed on the	
17.	The second secon		

forms.

1	Q	Do you recall what the pay amount was on those stubs?
2		MR. MICHAELS: I object. If he has them
3		can't they be produced as the best evidence?
4	Q	Do you have those pay stubs, Mr. Savage?
5	A	No, I do not.
6		MR. MICHAELS: Then I object to his recollec
7	***	tion. They must be in their possession.
8		THE COURT: Overruled. No, I will sustain
9	1	it at this point.
10	Q .	Mr. Savage tell us if there was anything else in his
11		personal effects?
12	A	Yes. There was also a bill of sale or a yellow sales
13	organ in	slip from a men's shop in Detroit. Jack's Men's Shop.
14	Q	Do you have them?
15	A	Yes, I do.
16	Q	Can we see them please?
17	A	It is in the office.
18		MR. MICHAELS: I am going to object to the
19		sales ticket.
20		THE COURT: Where is your office?
21		THE WITNESS: In the United States Attorney
22		office.
23		THE COURT: What happened to those papers
24		that were in the defendant's possession? Where
25		are they?

1		THE WITNESS: I have indicated in the report -
2		THE COURT: Where are they? I didn't say
3		what you indicated.
4		THE WITNESS: They were all returned to the
5		United States Marshal.
6		THE COURT: Do you know who has them now?
7		THE WITNESS: The only slip I maintained in
8		my custody was the bill of sale.
9		THE COURT: Are you surprised that you are
10		here as a witness this morning?
11		We will take a recess at this point. Let
12		the F.B.I. get their papers. Return at two fifteen.
13	-	Don't talk about the case or les anybody talk to
14	37.	you about the case.
15		(Whereupon at 12.24 p.m. o'clock a luncheon
16	014 J	recess was taken to 2.15 p.m. o'clock of the same
17		day.)
18		
19	•	
20		
21		
22		
23		
24		

THE COURT: Well there is no question in my mind whatever of the impecunity of the defendant being relevant particularly when he pays two thousand dollars cash for an automobile on or about the time of the robbery, but I don't think it shows impecunity but shows gainful employment for two weeks, some three or four weeks earlier. I will exclude it.

MR. MICHAELS: If the Court will give us two minutes we will write out the other one we were talking about.

THE COURT: All right.

(Discussion between counsel held off the record.)

MR. MICHAELS: I have it written here, Your Honor. This is actually Mr. Welch's proposed stipulation but it is in my handwriting. Apparently Mr. Welch's proposed stipulation is this. If called to testify the Honorable Charles Barrett would testify that he is a Justice of the Peace in Batavia, New York, and that on September 20, 1973, Mr. Robert Lee Denson paid two hundred twenty dollars in cash in payment of various traffic finds resulting from his arrest on the New York State Thruway in Batavia, New York for speeding on that day. This is his

-1	proposed stipulation and once again I oppose it.
2	THE COURT: On what grounds?
3	MR. MICHAELS: Again on the basis of relevancy
. 4	of showing that Mr. Denson was in possession of two
5	hundred twenty dollars some eight days after the
6	robbery had occurred. I don't see again its
7	importance unless the government can establish
8	what was going on inbetween.
9	THE COURT: It is plainly relevant. Your
10	argument goes to it's weight not relevancy or im-
11	materiality.
12	MR. MICHAELS: I take it I am overruled.
13	THE COURT: Yes.
14	MR. MICHAELS: I will recommend to Mr. Denson
15	in the expediency of this case to permit me to enter
16	into that stipulation having already objected and
17	been overruled by the Court.
18	Will you permit me to make that stipulation?
19	THE DEFENDANT: Yes.
20	THE COURT: All right.
21	MR. WELCH: Thank you, Your Honor.
22	THE COURT: Are you ready now?
23	MR. WELCH: We are prepared to proceed with
24	Mr. Savage's direct.
25	THE COURT: All right. Bring the jury in.

1	(At this point the jury was returned to the
2	courtroom.)
3	MR. WELCH: Will you mark this as Government's
4	exhibit
5 -	(Document marked as Government's Exhibit No.
6	ll for Identification.)
7	THE COURT: Proceed.
8 9	JAMES F. SAVAGE, Jr.
10	having previously been sworn, resuming the stand
-11	testified further as follows:
12	DIRECT EXAMINATION (Continuing)
13	BY MR. WELCH:
14	Q Mr. Savage this morning I had asked you to tell the
. 15	ladies and gentlement of the jury the items you found
16	in Mr. Denson's possessions on September 20, 1973. Do
17	you recall testifying about that?
18	A Yes, I do.
19	Q Mr. Savage I hand you what has been marked as Government's
20	Exhibit 11 for Identification; have you seen that before
21	today, Mr. Savage?
22	A Yes I have.
23	Q Was that in Mr. Denson's personal property on September
24	20, 1973?
25	A Yes, it was.

			-22
1		MR, WELCH: Thank you, Your Honor. I	
2		have no further questions.	
3		CROSS EXAMINATION	
4	BY	MR. MICHAELS:	
5	Q	Mr. Savage a couple of questions only. I think you	were
6		talking this morning about something you called an a	
7		cap or an applejack cap; I think that is what you f	
8		Mr. Denson wearing?	
9	A	Yes, I described it as that.	2)
10	Q	Have you seen caps like that before?	
11	А	That type cap?	
12	Q	Yes, that type of cap?	
13	A	Yes.	1
14	Q	In fact is it a fair statement to say that that type	of
15		cap, applejack cap, is a fairly common type cap worn	
16		negro blacks today?	3
17	A	I would say so.	
18	Q	A lot of black men wear that type of cap?	
19	A	Yes.	
20	Q	As a matter of fact a lot of young black men wear tha	at .
21		kind of a cap?	
22		MR. WELCH: Objection. It is calling for	or .
23		a conclusion by the witness.	
24		THE COURT: Overruled.	
25	А	Will you repeat the question.	

	Davage - Cross 100
1	THE COURT: A lot of young blacks wear them.
2	Have you seen a lot of them?
3	THE WITNESS: Yes, I have.
4	BY MR. MICHAELS:
5	Q When you picked up and first saw Mr. Denson, you describe
6	quite carefully this morning the appearance that he
7	made, referring to his clothing. I would like to ask
8	you now, did he have a moustache?
9	A You are referring to September 20th, when I first saw him
10	Q Yes.
11	A I believe he had some growth. Whether that was in fact
12	a moustache I don't know.
13	Q When you made that answer you gestured to the area above
14	your lip?
15	A Yes.
16	Q Did he have some growth below his lip?
17	A I should have said some growth here and also some growth
18	there (indicating). I would not call it a moustache.
19	THE COURT: You are referring to your upper
20	lip and chin, when you say "here"?
21	THE WITNESS: I am referring to the upper
22	lip.
23	THE COURT: The record won't show what "here
25	means. That may be out on the window.
20	Q When you said "some growth" you mean what a man would hav

1	if he had not shaved for a day?	
2	A No. What he would have if he had not shaved for several	
3	days. That is what it appeared to me to be.	
4	MR. MICHAELS: Thank you.	
5	MR. WELCH: Thank you, Mr. Savage.	
6	THE COURT: You are excused.	
7	(Witness excused.)	
8	MR. WELCH: Your Honor may I read this	
9	stipulation to the jury at this time?	
10	THE COURT: Sure.	
11	MR. WELCH: (Reading)	
12	"If called to testify the Honorable Charles	
13	Barrett would testify that he is a Justice of the	
14	Peace in Batavia, New York, and on September 20,	
15	1973, Mr. Robert Lee Denson paid two hundred twenty	
16	dollars in cash in payment of various traffic fines	
17	resulting from his errest on the New York State	
18	Thruway in Batavia, New York, for speeding in the	
19	east bound lane that day."	
20	MR. MICHAELS: In accordance with the previous	3
21	ruling it was so stipulated and so stipulated on	
22	behalf of the defendant individually.	
23	MR. WELCH: If Your Honor please, at this	
24	time it is our intention to call one of the other	
25	defendants we discussed earlier this morning.	

		1
1	MR. MICHAEIS: This was a subpoena issued	
2	to Mr. Weatherup. It is my understanding that	
3	Mr. Weatherup has plans to come to Utica and could	
. 4	be served here, because of the Marshal's difficulty	
5	in serving him. The way proof is going in today	
6 -	and the fact that he won't be able to be here until	
7 -	tomorrow morning, and if Jones doens't finish today	
8	would you have any objections to my taking him out	
9	of order? Apparently he has to go to Florida.	
_10	THE COURT: We will take him out of order	
. 11	if there is no objection.	
12	MR. WELCH: No objection.	-
13	(At this point the jury was returned to the	
14	courtroom and the following occurred in open court.)
15	MR. WELCH: If Your Honor please, the	
16	United States calls Raymond Jones.	-
17	RAYMOND W. JONES	-
18	RAIMOND W. JONES	-
19	called as a witness in behalf of the Government	-
20	being first duly sworn, was examined and testified	-
21	as follows:	
22	DIRECT EXAMINATION	
23	BY MR. WELCH:	
24	Q Mr. Jones where did you live in September 1973?	-
25	A 101 Almond Street,	-

- 1 Q In what city?
- A Syracuse.
- Q Do you know where the East Side Branch of the First
 Trust and Deposit is located in Syracuse?
- 5 A It is on Cherry and Lexington, I think.
- Q That is the bank I am referring to when I ask these questions. On September 12, 1973, at approximately
- three p.m. were you in that bank at Cherry and Lexington?
- 9 A Yes, I was.
- Q Could you tell the ladies and gentlemen of the jury what you were doing there?
- 12 A What I was doing in the bank?
- 13 Q Yes.
- 14 A I was robbing it.
- Q Was Robert Lee Denson with you there robbing the bank
- 16 that day?
- 17 A No, he wasn't.
- 18 Q He was not?
- 19 A No.
- Q Who else was with you?
- 21 A Kelvin Broadwater and a brother from Buffalo -- Kinimo.
- Q Where did you say he was from?
- 23 A Buffalo.
- 24 Q Do you know where this man is today?
- A No, I don't.

1	Q Prior to robbing the bank that day did you see Robert
2	Lee Denson at any time?
3	A No, I didn't.
4	Q You did not?
5	A No.
6	Q After robbing the bank
7	THE COURT: On that day did you see Robert
8	Lee Denson at any time, on September 12, 1973,
9	the day you robbed the bank?
10	THE WITNESS: No, I didn't.
11	Q Could you tell us if you know Mrs. Rosalie Armster?
12	A I am acquainted with her.
.13	Q Do you remember whether you saw her on September 12th,
14	1973?
15	A I did. On two or three occasions.
16	Q When was the first occasion that you met with her?
17	A It was approximately six thirty in the morning, give
18	or take five minutes, ten minutes.
19	Q And when was the next time that you met with her?
20	A I would say about three thirty that afternoon.
21	Q Did you meet with her other than that six thirty in
22	the morning time that day?
23	A Not to my knowledge.
24	Q And at that time in the morning was Robert Lee Denson pre
25	sent with you when you met with Rosalie Armster?

1	A No, he wasn't.
2	Q Will you tell us what happened after you robbed the
3	bank? Where did you go and what did you do with the
4	money?
5	MR. MICHAELS: Before he answers that ques-
6	tion, may I note an objection. I don't see where
7	this is relevant, what he did. This man is not
8	on trial.
9	THE COURT: Overruled.
10	BY MR. WELCH:
11	Q. You may answer the question, Mr. Jones.
12	A When I left the property, we left the bank, we went
13	down I believe it is East Fayette Street. We continued
14,	to my house where we stopped and left Broadwater off, on
15	the intention of coming back and picked him up. We
16	went on to my house and went over to my aunt and counted-
17	the money that we got from the bank.
18.	Q How much money did you count?
19	A Roughtly, I say, around twenty to twenty-two, twenty-
20	three thousand dollars.
21	Q What did you do with the money?
22	A The brother I mentioned was counting it was counting
23	out the money, and he said he didn't think it wise that
24	we keep the money on our person, that we take it and hide
.5	it somewhere. And I had enough faith in him to do

so, and I left me three thousand dollars so I had money to purchase an automobile, and he left. And that is the last time I see him. And I got a call at nine thirty that night from Mrs. Broadwater asking if I see him. I said, "No. Why?" She said the F.B.I. just left the house and fifteen minutes before there was a phone call and the F.B.I. and police came and took me downtown for questioning. I went down I would say about ten o'clock and about -- this is for questioning -- and three o'clock I was given my rights. About three thirty they asked me some more questions, after I was given my rights, about the bank robbing. And Rose Armster said I had three thousand dollars, which I did, because she seen the man give it to me. I returned the money to the Syracuse police and I was booked. You tell the police about your part in the robbery?

- Q
- No. I didn't. A
- Did you at any time tell the Syracuse Police Department Q about your part in the robbery?

MR. MICHAELS: I object. The man just testified ---

THE COURT: I heard what he testified to. What is your objection?

MR. MICHAELS: The objection is this. What he may have said to the police -- I don't know

i	the exact purpose of this question, unless he.
2	has other purposes.
3	THE COURT: Will you state your objection.
4	MR. MICHAELS: I question the relevancy of
5	any statement he gave to the police being stated
6	by this man at this time.
7	THE COURT: Overruled.
8	BY MR. WELCH:
.9	QDid you tell the Syracuse Police Department about your
10	part in the crime, at any time? Your involvement?
11	A No, I didn't.
12	Q You didn't talk to any members
13	A (Interrupting) I didn't say I didn't talk to them. I
14	said I didn't tell them any active part of my being
15	involved in the robbery.
16	Q What did you tell them about the three thousand dollars?
17_	A That it was given to me.
18	Q You at any time tell them that Mr. Denson was involved
19	in the robbery?
20	A No, I did not.
21	Q When were you questioned? On September 12th or 13th?
22	A September 12.
23	Q Before you were arrested after the bank robbery, were you
24	on Midland Avenue at any time, in Syracuse?
25 🔷	A Was I on Midland Avenue? I was on Midland Av. Midland

ì	and Castle.		
2	Q Do you remember about what time that was?		
3	A I would say around four thirty.		
-4.	Q In the afternoon?		
5	A Right.		
6	Q And who was with you if anybody?		
=:: 7	A The three I mentioned.		
8 -	Q Was Robert Lee Denson with you?		
9	A: No.		
102	Q Was Robert Lee Denson withdrawn. Were you in Midland		
11	Avenue at any time on that day when Robert Lee Denson		
12	was with you?		
- 13	A Can you repeat the question?		
14	Q At any time after you robbed the bank, or before you		
1.15	robbed the bank, were you at any time on Midland Avenue		
16	in the presence of Robert Lee Denson?		
17	A No, I wasn't.		
18	MR. WELCH: I have no further questions,		
. 19	Your Honor. Thank you.		
20	MR. MICHAEIS: No questions. Thank you.		
21	THE COURT: You are excused.		
22	(Witness excused.)		
23	MR. WELCH: May we approach the Bench, Your		
24	Honor?		
25	THE COURT: Yes.		

1 Honor. 2 THE COURT: Then the Court Reporter can read 3 it back. You understand, and I want your client. Mr. Denson, to understand, that you have the right 5 to have the jury see this witness and hear him testi-6 Are you willing to waive that right; give up fy. 7 that right? 8 THE DEFENDANT: No. 9 THE COURT: You want him here? 10 THE DEFENDANT: Yes. 11 MR. MICHAELS: For the Jury to see him? 12 THE DEFENDANT: Yes. 13 MR. MICHAELS: I will withdraw my request 14 and ask that he be taken out of order. 15 THE COURT: All right. Bring the jury in. 16 (At this point the Jury was returned to the 17 Courtroom where the following proceedings were had 18 in open court with the jury present.) 19 MR MICHAELS: Mr. Weatherup, please. 20 PAUL J. WEATHERUP 21 22 called as a witness in behalf of the Defendant. 23 being first duly sworn, was examined and testified 24 as follows:

THE COURT: Ladies and Gentlemen.

We are

1		taking the witness, Mr. Weatherup, who was one of		
2	the employees of the bank, out of order in order to			
3	accommodate him. He planned to leave on his vaca-			
4	tion this afternoon and he is being called by the			
5		defense, so he is being taken out of order as a		
6	defense witness with everyone's consent.			
7	MR. MICHAELS: Thank you, Your Honor.			
8	DIRECT EXAMINATION			
9	BY MR. MICHAELS:			
10	Q	Mr. Weatherup could you please state where you live, sir?		
11	A	I live in Syracuse, New York.		
12	Q,	Where are you currently employed?		
13	A	First Trust and Deposit Company.		
14	Q	And what is your position with the First Trust and Deposi		
15		Company?		
16	A	Branch manager and officer in charge of one of our local		
17		offices.		
18	Q	Would that be on the East Side Branch located at Cherry		
19	An interest	and Lexington, in Syracuse?		
20	A	Yes.		
21	Q	Were you in that position in September 12th, 1973?		
22	A	Yes sir.		
23	Q	I believe it has been established in this courtroom that		
24		there was a robbery in that particular bank that took		
25		place on that day. Is that right?		

1	A	Yes.			
2	Q And that you were a witness to that robbery?				
3	A Yes, sir.				
4	Q Now, Mr. Weatherup, you are here pursuant to a subpoena				
* - 5	. 3 <u>.7</u> 1199				
6	A	Yes.			
7	Q	Q Prior to today, am I correct that you were one			
8	1,200	of two witnesses called by the government at a preliminary			
- 9	11.75	hearing before Magistrate John McClaim, back in September?			
10	A	Yes.			
_11	Q	Am I also correct that you were one of two witnesses cal-			
12	ender trope	led before Judge Burke in Syracuse City Court in September?			
13	A	Yes dir.			
14	Q_	Am I also correct that you testified before the grand			
15		jury?			
16	7.7.11	MR. WELCH: May I object to the relevancy			
17 -	a . Q.	of this line of questioning.			
18		THE COURT: Yes. Sustained.			
19	Q	Mr. Weatherup in your testimony strike that. Mr.			
20		Weatherup do you recall that in your statement to the			
21	7	Syracuse City Police			
22		THE COURT: You can put the direct question			
23		to him, Mr. Michaels. What he said somewhere else			
24		we are not concerned with unless you want to impeach			
25		inim.			

1	MR. MICHAELS: I am sorry, Your Honor. I
2	beg your pardon.
3	BY MR. MICHAELS:
4	Q Mr. Weatherup I show you
-5	MR. MICHAELS: I better have these marked.
6	(Affidavit of Paul J. Weatherup marked as
7	Defendant's Exhibit A for Identification; affidavi
8	of Alton Isaac marked as Defendant's Exhibit B for
9	Identification.)
10	BY MR. MICHAELS:
11	Q Mr. Weatherup I show you Defendant's Exhibit A for Identi
12	fication and ask you if you can identify that document,
13	sir?
14	A Yes, sir.
15	Q Am I correct that that is a statement given by you to
16	the Syracuse City Police on the 12th of September?
17	MR. WELCH: Again I object to the relevancy
18	of all this.
19	THE COURT: Sustained.
20	Q Mr. Westherup have you previously
21	THE COURT: Sustained.
22	MR. MICHAELS: May I approach the Bench,
23	please?
24	THE COURT: Yes. Sure.
25	(The following discussion was held at the

BY MR. MICHAELS:

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- Mr. Weatherup on September 26, 1973, did you view Mr. Kelvin Broadwater and Mr. Robert Denson in a courtroom in the City of Syracuse?
- A Yes sir.
- And at that time did you see them both standing? Q
- 23 A Yes sir.
 - And at that time did you acknowledge that Mr. Denson was Q considerably larger in weight than Mr. Broadwater?

1	A Yes sir.
2	Q And had you previously told the police
3	A (Interrupting) No.
4	Q (Continuing) the following statement?
5	MR. WELCH: Objection, Your Honor.
6	THE COURT: Sustained.
7	BY MR. MICHAELS:
	Q Mr. Weatherup was your first description of the man you
9	identified
_ 10	THE COURT: How about his description? How
n	did you first describe the defendant when you were
3-1-12	first asked to give a description? How did you
.07. 3	first describe him, do you recall?
400 400 4014	THE WITNESS: You mean his hair, his weight
15	or height, Your Honor?
16	THE COURT: I mean as far as you described
	it, whether it was weight, height, color of hair,
18 ₁	color of face. Anything. Any description that yo
. 19	gave. Do you recall how you first described him?
20	THE WITNESS: It is in my affidavit.
21	THE COURT: I am not asking that. Do you
22	remember how you described him?
23	THE WITNESS: Between six and six foot two.
24	THE COURT: Anything else?
25	THE WITNESS: One hundred eighty pounds.

	Weatherup - direct 181.
1	THE COURT: Did you describe his color?
2	THE WITNESS: Yes.
3	THE COURT: Tell us what description you
4	gave, as best you can remember.
5	THE WITNESS: He was dark.
6	THE COURT: Anything else?
7	THE WITNESS: What they were wearing or
8	anything like this?
9	THE COURT: Would it help you to remember
10	if you looked at Exhibit A? Would that help you
11	remember whether you described anything else at
12	that time? Read it to yourself.
13	MR. WEICH: If Your Honor please, may we
14	approach the Bench while Mr. Weatherup reads that?
15	THE COURT: Yes.
16	(The following discussion was held at the
.17	Bench between Court and counsel outside the hearing
18	of the Jury.)
19	MR. WELCH: Your Honor may the government
20	have a continuing objection to what Mr. Weatherup
21	did in prior testimony as irrelevant, until he
22	tells us something about what he witnessed of the
23	crime we are trying here.
24	THE COURT: I don't know what you are try-
25	ing to establish.

1	MR. MICHAELS: I am trying to establish that
2	this man, in his statement, he stated under oath,
3	he described him as one hundred sixty, one hundred
4	eighty pounds.
5	THE COUPT: So he had a different weight.
6	MR. MICHAEIS: That they were different
. 7 :	in fact be had Mr. Broadwater being a larger man
8	than Mr. Denson. When confronted with the two of
9	them face to face in court at Syracuse he for the
10	first time scknowledged that his description was
- 11	in error because Mr. Denson is obviously
12	THE COURT: You can bring out all those
13	facts, but I think you would start at the beginning
14	when he observed the three men at the bank and did
15	he thereafter describe them; did he thereafter
16	change his mind; under what circumstances was he
17	mistaken about his description; did he thereafter
18	correct it. Being out the facts.
19	MR. MICHAELS: Okay.
20	THE COURT: I would first bring out his
21	observations at the bank.
22	(The following took place in open court
23	with the Jury present.)
24	BY MR. MICHAELS:
25	Q Mr. Weatherup let's get this clarified. You were a

1	not to this alleged robbery on the 12th of September?
2	A Yes sir.
3	Q In fact withdrawn. Now following, I think you just
4	described it, but following that robbery did you give a
5	statement to the Syracuse Police in which you identified
6	the three men by size and weight?
7	A Yes sir.
8 -	Q Color of skin and clothing?
9	A Yes sir.
10	Q And subsequent to that did you attend a line-up?
11	A Yes sir.
12	Q And in that lineup did you select Kelvin Broadwater?
13	A Yes sir.
14	Q In that lineup did you select Raymond Jones?
15	A Only by physical resemblance.
16	Q Now in your description of Kelvin Broadwater did you
17	describe him in your first observation as being a man
18-	of approximately one hundred seventy, one hundred eighty
19	pounds?
20	MR. WELCH: Again the same objection.
21	THE COURT: Overruled.
22	A Yes, sir.
23	Q : And having read Defendant's Exhibit A to refresh your
24	recollection did you describe Robert Denson as one hundred
25	sixty pounds?

	1-	A Approximately one hundred sixty pounds.
	2	Q And then at the preliminary hearing held on the 26th of
	3	September, 1973, you were confronted by Mr. Denson and
	- 4	Mr. Broadwater; correct?
	5	A Yes, sir.
: :	6	Q Did you at that time acknowledge that your original des-
••••	7	cription of the weight had been in error?
	8	A Yes, sir.
######################################	:: g =	Q You asknowledged when faced with those men that Mr.
F/23:0	-10	Denson was substantially heavier than Mr. Broadwater?
	11	A Yes, sir.
-4	12	MR. MICHAEIS: Thank you very much.
	13	THE COURT: All right.
i . i	14	CROSS EXAMINATION
	15	BY MR. WELCH:
	16	Q Mr. Weatherup in response to Mr. Michaels' questions you
0.100	17-	said you chose Mr. Broadwater in a lineup and someone
22.2.1	18	you described by physical appearance as Mr. Jones?
	19	A Yes.
All and the second	20	Q Do you recall what date that line up was?
	21	A September 13th.
	22	MR. WELCH: No further questions.
	23	THE COURT: Mr. Weatherup where were you
	24	when the three men came into the bank?
	25	THE WITNESS: I was in my office.

1	an report	THE COURT: Where was your office? Did you
2	4	have an open view of the bank proper?
3		THE WITHESS: Yes. The office is located
4		in the front of the bank and I have a view of the
5		tellogs' area.
6		THE COURT: Is your office just a desk with
. 7		a railing around it?
8		THE WITNESS: No, a partition.
9		THE COURT: And you had an open view of
10		the tellers' counters?
11		THE WITTES: Yes sir.
12		THE COURT: Where did the men go as they care in
13		I gather they went right past you?
14		THE WITNESS: I did not see them come in
15		the entrance to the bank.
16		THE COURT: When did you first observe them?
17		THE WITNESS: Whon I saw a flash come from
18	211	the counter of the tellers' area.
19		THE COURT: When you looked up what did you
20	'n	see?
21		THE WITNESS: I saw a body inside the
22		telers' erea.
23		THE COURT: What was causing the flashing?
24		THE WITNESS: A person jumping over.
25		THE COURT: Tell us what you observed about

1	it as bost you can mass?
	it as best you can recall.
2	THE WITTESS: As best I can recall, as I sai
3	before this morning, one was short. The other two
4	were tall. The one that was short had a gun and
- 5	did come in the office.
6	THE COURT: Which one had the gun?
7	THE WITNESS: What I was told later, it
8	was Mr. Broadwater.
9 "	THE COURT: Not what somebody told you.
10	You were a witness because you were there. Tell
11	us what you saw.
12	THE WITHESS: I was on the 'phone. The
13	gentlemen with the sawed-off shotgun pushed open
14	my door and came in the office.
15	THE COURT: Did you get a good look at him?
16	THE WITNESS: Yes.
17 -	THE COURT: Was he the one with the gun?
18	THE WITNESS: Yes.
19	THE COURT: Can you describe him?
20	THE WITNESS: He was about five eight; five
21	eleven.
22	THE COURT: What color?
23	THE WITNESS: Dark.
24	THE COURT: Was he black?
25	THE WITNESS: Yes.

1	THE COURT: Was he wearing a mask?
· <u>û</u>	THE WITNESS: No he was not.
3	THE COURT: How long did you look at him?
4	THE WITNESS: He asked me to go out in the
5	lobby. I would say probably two and a half to
6	three minutes.
7	THE COURT: What did he do with the gun?
8	THE WITNESS: He pointed it at me and asked
9	me to go out in the lobby and kept pointing it at
10	me and fanning it to the rest of the employees.
11	THE COURT: Would you describe what kind
12	of a gun it was?
13	THE WITNESS: It was a double barrelled
14	sawed-off shot gun.
15	
16	THE COURT: Did that arouse any reaction in
17	you? Any emotion?
18	THE WITNESS: I was nervous.
19	THE COURT: Were you frightened?
20	THE WITNESS: Yes sir.
21	THE COURT: Did you do as he told you?
22	THE WITNESS: Yes, I did.
23	THE COURT: How long did this take?
24	THE WITNESS: From the time they came in
25	until they left the bank premises?
	THE COURT: Yes.

1	THE WITNESS: Well when I saw the first
2	flash go over the counter it was roughly seven
3	after three and they left twelve or thirteen minut
4	after three.
.5	THE COURT: Did you get a good look at all
6	three of those men?
7	THE WITNESS: The other two had stocking
8	masks on.
9	THE COURT: Is the man with the gun present
10	in the courtroom today?
11	THE WITNESS: No sir.
12	THE COURT: He is not?
13	THE WITNESS: No, sir.
14	THE COURT: Well when you first were asked
15	to give an identification how was that done? Wher
16	were you after the robbery?
17	THE WITNESS: You mean a description of
18	exactly what happened?
19	THE COURT: Yes.
20	THE WITNESS: It was given to one of the
21	F.B.I. men and it was down in the basement of the
22	bank.
23	THE COURT: When? In relation to the
24	robbery in time?
25	
	THE WITNESS: I would say ten or fifteen

1		minutes.
2		THE COURT: The same day?
3		THE WITNESS: Yes.
4		THE COURT: When were you ever shown any
5	No.	pictures and asked to identify the pictures?
6	2.0	THE WITNESS: Later on that afternoon.
7		THE COURT: How many pictures were you shown
8		and by whom?
9	A SS	THE WITNESS: I was shown by the Syracuse
10		Police Department in several stacks of photographs:
11		THE COURT: Did you select any one from those
12		photographs?
13	53	THE WITNESS: I selected the gentleman with
14		the gun.
15		THE COURT: And who was he?
16		THE WITNESS: Kelvin Broadwater.
17	7. 7.	THE COURT: You were not able to select
18		anyone else?
19		THE WITNESS: No.
20		
21		THE COURT: Following that were you again
22		shown ary photographs at any time?
23		THE WITNESS: No, sir.
24		THE COURT: What was the next attempt to
25		identify them?
F 1 4 4		THE WITNESS: Through the line-up, the

ing day. That would be September 14th?

THE COURT: Through a line-up on the follow

following day.

1

4	THE WITNESS: The 13th.
-5	THE COURT: And at that time how many people
- 6	were in the line-up?
7	THE WITNESS: Five or six.
8	THE COURT: Can you describe them? Were
9	they similar?
10	THE WITNESS: They were similar in height
11	and all dark skinned.
12	THE COURT: And did you select enyone from
13	that group of people?
14	THE WITNESS: I selected Kelvin Broadwater.
15	THE COURT: Only Kelvin Broadwater?
16	THE WITNESS: Yes sir.
17	THE COURT: At any time did you select the
18	man sitting at the counsel table?
19	THE WITNESS: No sir.
20	
21	THE COURT: Again I want to say to the
22	jury I am not in the habit of conducting the exami-
23	nation, and I don't like to do it, but I am trying
24	to find out what happened.
25	All right, you are excused, unless counsel
	has something more.
	U.S. COURT REPORTERS FEDERAL BUILDING ALBANY, N. Y.

1	MR. WELCH: No, thank you, Your Honor.
2	(Witness excused.)
3	MR. WELCH: If Your Honor please, the
4	United States calls Mr. Delmar Breland.
5	THE COURT: Would counsel come up please.
6	(The following discussion took place at
7	the Bench between Court and Counsel outside the
8	hearing of the Jury.)
9	THE COURT: Was the defendant in any line-
10	up where that witness viewed him?
11	MR. WELCH: No.
12	THE COURT: He never was in any line-up where
13	this witness viewed him or any other line-up?
14	MR. WELCH: No. That is correct.
15	(The following took place in open court with
16	the jury present.)
.17	THE COURT: Counsel have agreed that the
18	defendant Denson was never in any line up, so you
19	have not got a case of a withess viewing the defend-
20	ant. At a line-up or photographs.
21	HENRY DELMAR BRELAND
22	called as a witness in behalf of the United States
23	being first duly sworn, was examined and testified as follows:
24	BY MR. WELCH: DIRECT EXAMINATION
25	Q Mr. Breland how old are you?
	A 19.

	li .	
1	Q	Where do you live?
2	Α	517 Garfield Avenue.
3	Q	In what city?
4	А	Syracuse.
5	Q	Did you live there in September 1973?
6	A	Yes, sir.
7	Q	In September 1973, Mr. Breland, did you know Mr. Robert
8		Lee Denson? b
9	A	Yes.
10	Q	Did you know Mr. Robert Lee Denson on September 12, 1973?
11	A	Yes.
12	Q	How long prior to that date had you known him?
13	A	I don't really know how long I know him.
14	Q.	Had you met him on more than one occasion prior to that
15		date?
16		THE COURT: Answer. Don't nod your head.
17	A	Yes.
18	Q	On September 12, 1973 you know Mr. Raymond Jones?
19	A	Yes, I knew him.
20	Q	Did you see him on any occasions prior to September 12,
21		1973?
22	A	Yes.
23	Q	On September 12, 1973 did you know Mr. Kelvin Broadwater?
24	A	Do you mean Kag?

Did you know anybody by the name of Broadwater?

25

Q

1	^	Didnit lengt his last name
	A	Didn't know his last name.
2	Q	Now directing your attention to September 12, 1973, tell
3		us whether or not you saw Mr. Robert Lee Denson on
4		September 12, 1973?
5	A	I don't know what date it was when I see him.
6	Q	Mr. Breland were you ever subsequent to September inter-
7		viewed by an agent of the F.B.I.?
8	A	Yes.
9	Q	Do you recall his writing down that interview, notes
10		of the interview?
11	A	No, I don't.
12	Q	If I showed you something let me ask you to read
13	TI s	something to yourself and see if it refreshes your
14		recollection about that particular date that I asked.
15		MR. MICHAELS: Objection.
16		THE COURT: Overruled. Mark it.
17		MR. WELCH: Your Honor I am showing the wit
18		ness 3507.
, •		THE COURT: All right.
20	Q	Just read that to yourself.
21	A	(Reads).
22	Q.	Have you read enough of that yet to refresh your recol-
23		lection about the date?
24	A	Yes.
25	Q	Now, Mr. Breland, on September 12, 1973, you have occa-
	11 40	,

.

1	sion to see Robert Lee Denson?
2	A I don't remember any dates. I don't know the dates.
3	THE COURT: Having read that, does that help
4	you remember what the date was?
5	THE WITNESS: Yes.
6	THE COURT: What was the date?
7	THE WITNESS: September 12th.
8	BY MR. WELCH:
9.	Q Where did you see Mr. Denson and what time of the day was
10	that; do you recall? Was it morning or afternoon?
11	A It was in the afternoon.
12	Q On September 12, 1973, had you heard about a bank robbery
13	at the First Trust & Deposit?
14	A Later on that night, yes.
15	Q I see.
16	THE COURT: What time did you see Denson?
17	THE WITNESS: Pardon?
18	THE COURT: What time did you see him on
19	that day?
20	THE WITNESS: It was I think it was aroun
21	four o'clock.
22	BY MR. WELCH:
23	Q Where did you see Mr. Denson that day?
24	A On Midland.
25	Q On Midland Avenue?

		-
1	A Yes.	
2	Q In the City of Syracuse?	
3	A Yes.	
4	Q Who else was with him, if anybody?	
5	A Kag and Raymond.	
6	Q What if anything did you do or did they do or you see	
7	them do on Midland Avenue at four o'clock?	
. 8 -	A Somebody axed us to give them a ride so I said "Yes".	100
, 9	So I gave them a ride to where they was going.	
10	Q And where was that?	
11	A On McKinley Ave.	
12	Q Do you remember the number on McKinley Av.?	
13	A No.	1
14	MR. WELCH: I have no further questions.	
15	MR. MICHAELS: May I have a copy of the 3507	?
16	(Mr. Welch hands documents to Mr. Michaels.)	
_17	MR. MICHAELS: May I just have a moment to	
18	read 1t?	
19	THE COURT: Yes.	
20	(Mr. Michaels reads documents.)	
21 22	CROSS EXAMINATION	
23	BY MR. MICHAELS:	
24	Q Mr. Breland this exhibit that you looked at, am I cor-	4
25	rect that if you look at that you were interviewed in	
	the middle of November 1973? Does that refresh your	

1	recollection of the date in the upper right hand corner,
2	11/16/73?
3	A Yes.
-4	Q Am I wrong? That is what it says?
. 5	MR. WELCH: Would Your Honor indulge us for
6	moment? There is a confusion about dates.
7 *	THE COURT: Yes.
8	Q On November 9, 1973; the date in the lower left hand
9	corner. You were interviewed on November 9, 1973, by an
10	agent of the F.B.I.?
.11	A The only time I remember being interviewed was September
12	12th. The next time was this morning, when they came an
13	got me.
14	THE COURT: You were never interviewed after
15	September 12th?
16	THE WITNESS: No.
17	BY MR. MICHAELS:
18	Q Are you sure that Mr. Simpson, Mr. George P. Simpson,
19	a special agent, didn't come to see you in November?
20	Wasn't it two months after the robbery that you were firs
21	contacted by an investigator? You were not contacted
22	on September 12th, were you?
23	A It was September 12th.
24	Q Do you know I am not trying to trick you on the date,
25	I am asking you what date you were interviewed. Who

1	was it came to see you?	
2	A An F.B.I. agent.	
3	MR. MICHAELS: Do you have the record of	
4	interview on September 12th, 1973?	
5	THE COURT: Mr. Welch?	
6	MR. WELCH: No, Your Honor.	
7	Q Just look at the statement you gave and look at the	
8	date and tell me if that doesn't refresh your recollec-	1
9	tion of when you were interviewed?	
10	A It don't.	
211	MR. MICHAELS: May we approach the Bench.	
12	THE COURT: Yes.	
13	(The following discussion was held at the	
14	Bench outside the hearing of the Jury.)	
15	MR. MICHAELS: Gene tells me I am correct,	
16	that the interview there was another interview.	ros
17 ()	THE COURT: He just said there wasn't any	- i - t
18	other interview.	
19	MR. MICHAELS: Gene tells me there was anoth	er
20	interview, other than that date shown up here. I	
21	felt the date of the interview was	
22	THE COURT: I know that an F.B.I. agent coul	d
23	have interviewed him, but he made no notes. Those	
24	are things you fellows should find out before you	
25	get in here.	

1	MR. MICHAELS: I didn't know about this guy
	Gene tells me this was the first interview. I
3	
4	THE COURT: You can stipulate if you want to
	MR. WELCH: There was an interview on November
	9th. This is a mistake as to the date of the
	interview.
	THE COURT: Go ahead and stipulate.
9	MR. MICHAELS: All right.
10	(The following took place in open court be-
1 cm - cm 11	fore the Jury.)
	MR. MICHAE:S Mr. Welch, pursuant to a conver
13	sation at the Bench, is it stipulated at this time
	that regardless of the previous testimony of the
7777 276 ER 75 77	witness that he apparently is mistaken as to the
16	interview date, and the date of the interview, or
	the first interview by the F.B.I. was November 9th
18	1973?
19	MR. WELCH: So stipulated.
20	MR. MICHAELS: Rather than September 12th,
21	as he so indicated?
22	MR. WELCH: So stipulated.
23	BY MR. MICHAELS:
24	Q Mr. Breland did you hear the stipulation I just made
25	with Mr. Welch?

1	Α.	The mistake on the dates?
2	Q	Yes. Did you hear it?
3	A	Yes.
4	Q	And did you understand that it appears as if you are
5		mistaken as to the date that you talked to the F.B.I.?
6	A	Yes.
7	Q	Do you now agree that with what we have stipulated or
8	7	that it was about the second week of November, November
9	and the second second second	9th, when the F.B.I. man came to see you?
10	А	Yes.
-11	િ	Now when the F.B.I. man came to see you was he alone or
12		was he with someone else from the F.B.I.?
13	Α	He was alone.
14	Q	Were you alone?
15	Λ	No. I was at Vic Smiley's house.
16	Q	Is Victor Smiley here to testify too?
17	A	Yes.
18	Q	Is that Victor Smiley waiting outside?
19	A	Yes.
20	Q	Was anybody else there besides you and Victor Smiley?
21	A	There was Jeff Houston.
22	Q	His first name is Jeff?
23	A	Yes.
24	ર	How did the F.B.I. man have occasion to come to Victor
25		Smikey's house? Did he call for an appointment?

1	A No. He just came, knocked on the door and said "F.B.I.
2	Q And the three of you just happened to be there together
3	at that time; is that right?
4	A That's right.
5	Q When the F.B.I. men first interviewed you did you re-
6	call how did he interview you? Did he say "Tell me
7	what you know about September 12th?" How did he start
8	the interview?
9	A Yes. Did we give them a ride.
10	Q Did he say "Did you give them a ride on September 12th"
11	A No he didn't say the date or anything. Yes, I do think
12	he did say the date.
13	Q In other words what happened was two months after this?
14	MR. WELCH: Cojection.
15	THE COURT: Yes. Don't sum up.
16	BY MR. MICHAELS:
17	Q Now, Mr. Freland, the F.B.I. man came to your house, or
18	to Victor Smiley's house, and he asked you if you gave
19	Denson, Jones and Broadwater a ride on September 12th.
20	Am I right?
21	A Yes.
22	Q And this was on November 9th when he asked you this
.23	question; correct?
24	A Yes.
25	Q And that was about two months after the robbery; is

,		10000011 - 011000
1	A	17.
2	Q -	Where do you live? What city do you live in?
3	A	Syracuse.
4	Q	Jeff, in September of 1973 did you know Bobby Lee Denso
5	A	Yes, I know him.
6	Q	Did you know Mr. Eobby Lee Denson on September 12, 1973
7	A	I don't remember dates but I know him.
8	Q.	All right. In September 1973 you know Mr. Raymond
9		Jones?
10	A	I know Raymond Jones but I don't know any dates.
11	Q	Did you know him lest fall in 1973?
12	A	In the fall? I guess so. If that is when it was I
13		know him.
14	Q	Did you now a Mr. Kelvin Broadwater?
15	A	Yes.
16	Q.	Do you know what Mr. Broadwater's first name is?
17	. 6	MR. MICHAELS: Objection. He just seid
18		"Kelvin".
19	6	Do you know Mr. Broadwater by any other name?
20	A	By what we used to call him?
22	Q	Yes. What used you to call him?
23	Ą	Kag.
24	Q	Now, Jeff, did there come a time when you heard over
25		the radio or anyplace, a news broadcast, of a robbery
		of the First Trust & Deposit Company, in the City of

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d	٦	ı		,	1
	-		1	c	

1	Syracuse?
2	MR. MICHAELS: I object.
3	THE COURT: Overruled.
4	Q You hear about that bank robbery?
. 5	A Yes, I heard.
6	Q Q Do you remember the day that you heard about it?
7	A Yes.
8	Q That day when you heard about that bank robbery did you
9 -	see those three men that I just asked you about?
10	A I know that day but I didn't know they did it.
11	Q Just answer the question I asked. On that date when
12	you heard about the bank robbery did you see these three
13	men?
14	A Yes.
15	Q Where did you see them?
16	A On Midland.
17	Q I didn't hear you.
18	A On Midland.
19	Q Were they together?
20	A Yes. Whan I see them they were together.
21	Q Tell us what you say them do?
22	A I didn't see them do anything.
23	Q What were you doing when you saw withdrawn. What
24	were they doing when you saw them?
25	A They was getting in the car with us.

1	6	That is what I am asking. Tell us what took place?					
2	A We gave them a ride.						
3	THE COURT: I can't hear you, Mr. Houston						
4	Would you speak up, please?						
5		THE WITNESS: We gave them a ride over					
6		to McKinley, I think, yes.					
7	Q	To any particular place in McKinley?					
8	A	To a house.					
9	Q	Anybody's house in particular?					
10	A	I don't know whose house it was.					
11	a	Now this was before or after you heard shout the bank					
12		robbery on the radio?					
• 13	A	After.					
14		THE COURT: Mr. Reporter, will you read					
15		back the last question and answer?					
16		(The Court Reporter repeated the last					
17		question and answer as above recorded).					
18		THE COURT: What time, do you remember?					
19	a	THE WITNESS: No.					
20		MR. WELCH: I have no further questions,					
21		Your Honor.					
22		MR. MICHAELS: Your Honor, before cross-					
23		examining Mr. Houston, may I reserve the					
24	1	right to make a motion on the testimony of					
25		the last witness, on his testimony, and before					
ACCRECATION CONTRACTOR SERVICES	1						

1	THE COURT: All right.			
2	CROSS-EXAMINATION			
3	BY MR. MICHAELS:			
4	Q Mr. Houston, I didn't get your street address in			
5	Syracuse?			
6	A 307 West Colvin.			
7	Q 307 West Colvin?			
8	A Yes.			
9	Q Do you recall what time it was that you heard about			
10	this particular bank robbery?			
11	A No, I don't keep track of time.			
12	THE COURT: Was it in the morning, the			
13	afternoon?			
14				
15	THE WITNESS: It was in the evening.			
	THE COURT: Early evening or late evening?			
16	THE WITNESS: Early.			
17	THE COURT: Early evening?			
18	THE WITNESS: Yes.			
19	BY MR. MICHAELS:			
20	Q Now, am I correct, Mr. Houson, that the first and only			
21	time that you were ever contacted by somebody investi-			
22	gating this case was on November 9, 1975? And to			
23				
24	refresh your recollection on that date, I show you			
25	Exhibit 3508, which is a report of an interview with			
	you by Special Agent Simpson on Movember 9th?			

1	A	Yes.			
2	Q	So it was about two months after the incident when you			
3		were contacted by the F.B.I?			
4	A	Yes.			
5	Q	And from what a previous witness told us, you were in			
6		a house with Victor Smiley?			
7	A	Yes.			
8	Q	And Mr. Breland was there?			
9	A	Yes.			
10	Q	And this F.B.I. men didn't call for an appointment?			
11	A	No.			
12	Q	He just started talking to you?			
13	A	Yes.			
14	Q	How long was he there?			
15	A	About a half hour.			
16	Q	Did he tell you withdrawn. I believe you told the			
17		Special Agent that \$2.00 was paid for the gasoline for			
13		the ride that you gave?			
19	A	Yes.			
20	Q	I believe you also told the Special Agent, according to			
21		the statement written up by him, you didn't mention			
22		anything about having heard about this on the radio, had			
23		you?			
24	A	What is that now?			
25	Q	In the summary, this is a summarytake a look at			

1		Exhibit 3508this is a summary by an F.B.I. Agent		
2	of his interview with you. Is that correct? Do you			
3	agree that that is what that document is, a summary o			
4	-	an interview with you by Special Agent Simpson?		
- 5	A	Yes.		
6	Q	Now had you also knowledge and by the 2nd of November,		
7		1975, you were well aware that Jones, Broadwater and		
8		Denson had all been arrested, weren't you? You knew		
9		that by then, didn't you?		
10	A	Yes.		
11	Q	Now in that statement as you look at it, that summary,		
12		there is nothing in that summary that says that you		
13		related this automobile ride with these three men, or		
14		having heard about it on the radio; it doesn't say		
15		anything about that, does it?		
16	A	No.		
17	Q	What it says, he summarizes the conversation with you		
18				
19		what the Special Agent said was, "On September 12"		
20		he just uses the date, the date of the robbery, "that		
21		you gave them a ride"; is that correct?		
22	A	Yes.		
23	Q	And he told you, didn't he, that September 12 was the		
24	-	date of the robbery? You didn't know that September 12th		
25		was that important?		
	A	No.		

. 1	Q And he told you that it was on September 12th that			
2	you gave them a ride, didn't he?			
3	A Yes.			
4	Q Your answer is what?			
5	A Yes.			
6	MR. MICHAELS: Thank you. I have no			
7	further questions.			
8	MR. WELCH: Nothing further. May we			
9	approach the bench?			
10	THE COURT: Did you know that the day			
11	you gave them the ride was the same day of			
12	the robbery?			
13	THE WITNESS: Yes, it was the same day			
14	of the robbery.			
15	THE COURT: You know it was the same day,			
16	but you just didn't know the date?			
17	THE WITNESS: Yes.			
18	THE COURT: All right.			
19	MR. MICHAELS: May I ask another question			
20	CROSS-EXAMINATION (Continuing)			
21	BY MR. MICHAELS:			
22	Q Mr. Houson, the First Trust and Deposit at Cherry and			
23	Lexington wasn't the only bank that was robbed in			
24	Syracuso that year, was it?			
25	A No.			

1	Q	There are a lot of bank robberies in Syracuse, aren't
2		there?
3	A	Yes.
4		You hear about bank robberies all the time, don't you?
5	Q	
	A	Yes.
6	Q	In fact there was another bank robbery that week?
7	A	Yes.
8		MR. MICHAELS: Thank you.
9		THE COURT: All right.
10		(Witness excused)
11		THE COURT: We will take a short recess
12		at this time.
13		(At this point the jury retired from the
14		sourtroom).
15		MR. WELCH: Mr. Victor Smiley is here,
16		Your Honor, and I am advised he participated
17 -		in this also, this ride giving.
18		THE COURT: Yos.
19		MR. WELCH: I don't at this point see
20		any need to call him. I am announcing this
21		here and putting it on the record, we had
22		some difficulty in locating him, and if Mr.
23		Michaels wants him, he is here. I am not
24		going to call him, but I want it clear that
25		he is hore.

1	THE COURT: We will have the witness
2	available for Monday morning. I would direc
3	him to be here.
4	MR. MICHAELS: Did you say Monday?
5	THE COURT: I mean Tuesday. All right.
6	MR. WELCH: We have directed him to be
7	here.
8	(At this point the jury was brought into
9	the Courtroom).
10	THE COURT: Go ahead, Mr. Welch.
11	MR. WELCH: Your Honor, the United State
12	calls Rosa Lee Armster.
13	ROSA LEE ARMSTER,
14	called as a witness, in behalf of the Government,
15	being first duly sworn, was examined and testified
16	as follows:
17	DIRECT EXAMINATION
18	BY MR. WELCH:
19	Q Now, Mrs. Armster, would you keep your voice up good
20	and loud so all these people can hear you. It is
21	required that everything you say be heard.
22	Tell the ladies and gentlemen of the jury
23	where you lived in September 1973?
24	A At 608 Midland Avenue.
25	Q And what city is that in?

A	Syracuse, New York.			
Ω	Directing your attention to September 12th, 1973, did			
	you have occasion to see Raymond Jones that day?			
A	Was that the day of the bank robbery?			
a	Well Mrs. Armster, let me ask you this. Are you aware			
	that there was a bank robbery at the First Trust and			
***	Deposit Company at Cherry and Lexington Streets?			
Λ	Later that day.			
Q -	On the day that you became aware of that bank robbery,			
	did you have occasion to see Raymond Jones?			
A	Yes.			
Q	When did you first see Raymond Jones that day?			
A	It was early in the morning, about 8:00 or 8:30.			
ý.	When you first saw him on that occasion, who else was			
	present?			
А	Bobby Denson.			
a	Could you tell us what, if anything, was said or done?			
Α	We were in the bedroom. We were all sitting around.			
Q	I can't hear you.			
A	We were all in the bedroom, sitting around. And like			
	at first everybody was talking. Raymord was talking to			
	my counin, Dora, and I was talking to Bobby about his			
	wife, his children, and wife, and Raymond told us, "we			
	are going to rob a bank."			
	THE COURT: The was "Bobby"?			
	Q A Q A Q A Q			

	1	THE WITNESS: Bobby Denson. He was in					
	2	the bedroom.					
	3	BY MR. WELCH:					
	4	O Did Bobby Denson say anything about the bank robbery?					
	5	A No.					
	6	Q Afterlet me ask you this, do you recall what Bobby					
	7	Denson said at that time, that morning, if anything?					
	8	A No, he was just telling me about his wife. He showed					
	9	me a picture of her. And Raymond was the one who said,					
	10	"we are going to rob a bank."					
	11	Q Now you said you heard about a bank robbery later that					
	12	day. In relation to the time that you heard about the					
e er e	13	bank robbery on that day, September 12th, you have					
	14	occasion to see Bobby Denson again?					
	15	A Yes. It was about between 3:00 and 4:00, I think. I a					
	16	not sure of the time.					
	17	a And on that occasion, who else was there, if anybody?					
	18	A At first Raymond came to the house and he asked me to					
	19	go with him, and just as we were leaving, I saw Bobby					
	20	and Kelvin Broadwater.					
	21	Q You know Kelvin Broadwater by any other name?					
	22	A Keg.					
	23	Q Where did you see them?					
	24	A They ware just coming into the door.					
	25	Q On HAland Avenue?					

1	A	Yes.	
2			THE COURT: When was this?
3			THE WITHESS: I don't know the exact date
4			but it was the day the bank got robbed.
5			THE COURT: The day the bank got robbed.
6			What time of the day?
7			THE WITNESS: It was between 3:00 and
8	١,		4:00. Between 3:00 and 4:30. I am not sure
9			of the time.
10			MR. WELCH: Thank you, Your Honor. I have
11			no further questions.
12			MR. MICHAELS: If Your Honor please, the
13			Grand Jury testimony has just been handed
14			to me.
15			THE COURT: All right. We will take our
16			luncheon recess until 2:15. That will give
17			Nr. Michaels an opportunity to read that
18			rather lengthy testimony. Don't talk about
19			the case, don't allow anybody to talk to you
20			about it.
21			(At this point the jury retired from the
22			Courtroom).
23			MR. MICHAELS: I will move to strike her
24			testimony as imposching the credibility of

the two previous government witnesses.

ı	THE COURT: Motion denied.
2	MR. NICHAELS: All right.
3	THE CLERK: Court stands in recess until
4	2:15.
5	(Whereupon at this point, a luncheon
6	receas was taken until 2:15 P.M. of the same
7	day).
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1	AFT.	ERNOON SESSION
2		ANCES: Same as morning session.
3		THE COURT: All right, proceed.
. 4		GROSS-EXAMINATION
5	BY MR.	MICHAELS:
6	Q	Mrs. Armster?
7	A	Yes.
8	Q	You testified before the Federal Grand Jury last fall?
9	A	Yes.
10	Q	And now before you testify today, did you at any time
11		have an opportunity to review the transcript of your
12	1	testimony before that Grand Jury?
13	A	No.
14	Q	This is document 3509. This is a transcript of your
15		testimony. You have never seen that before?
16	A	No.
17	Q	Mrs. Armster, am I correct
18	A	(Interrupting) Yes.
19	Q	I didn't finish my question. Am I correct, Mrs.
20		Armster, that your testimony was that early in the
21		morning of the 12th of September, Raymond Jones came
22		to your apartment; correct?
23	i.	Yes.
24	Q	Having read your testineny, or reviewed it before
25		asking questions, I discover, am I correct, that your

	li	
1		apartment had two rooms in it?
2	A	Three rooms. One bedroom, kitchen and living room.
3	Q	And that the conversation with Raymond Jones took place
4		in which of these three rooms?
5	A	In the bedroom.
6	Q	That would be how large a room?
7	Α	9 by 12.
8	Q	And also present in that room was, I think you mentioned
9		Bobby Denson?
10	A.	Yes.
11	Q	And also present was somebody else, wasn't there?
12	A	Yes.
13	Q	Who was that?
14	A	Dora Bolden.
15	Q	How old is Dora Bolden?
16	A	She is seventeen.
17	Q	I think you also testified before the Grand Jury about
18		having some children?
19	A	Yes, I have four.
20	Q -	Were some of those children at home at that time?
21	A	Yes, the two smallest ones.
22	Q	The two smallest ones at that time were how old?
23	A	My little girl is two, at that time. The baby, he is
24		fifteen months old.
25	Q	How old was the first one that you mentioned?

1	A	She is three now.
2	Q	And the other one was younger?
3	A	Two.
4	Q	And when this conversation took place, those two
5		children were in the bedroom with you?
6	-A	I dnn't think so.
7	Q	Do you know where they were?
8	A	Probably see, like the apartment is small, and in my
9		living room, I have it fixed up into a bedroom for the
10		kids.
11	Q	Were they awake at the time?
12	A	I don't remember.
13	Q	You don't remember whether they were awake or asleep.
14		Now this was about 8:00 o'clock in the morning; correct
15	A	I think they were awake but I am not sure because they
16		are in the Living room.
17	Q	Were they talking or eating or doing something at the
18		time?
19	A	Probably just playing.
20	Q	Making noise?
21	A	Not too much noise.
22	Q	Your older two children had already gone to school?
23	A	Yes.
24	Q	Now in your Grand Jury testimony, you testified that
25		excuss me. I withdraw that question.

1	• • •	Mrs. Armster, do I read correct from your
2		Grand Jury testimony, beginning at page 100, line 16,
3		if you will read along with me. "Guestion " this was
4		a question by Mr. Welch. Do you recall he examined you
5		at the Grand Jury, the same gentleman sitting at the
6		table now?
7	A	Yes.
8	Q	This was a question by Mr. Welch:
9		"Q O.K. Prior to that time, prior to
10		the time that he gave you the two one
.11		hundred dollar bills on September 12th, had
12		you talked with Raymond about the bank
13		robbery?
14		A I didn't talk with him about the bank
15		robbery, but I did talk with him.
16		Q Did he tell you what he had been doing
17		that day?
18		A No.
19		O Did you know what he had been doing
20		that day?
21		A No.
22		O Did you talk with Raymond after he
23		gave you the two one hundred dollar bills,
24		about the bank robbery?
	i i	

A No, that was the last I seen of him.

Who laughed?

1 Q Did Raymond Jones ever tell you anything at all about the bank robbery? 2 A Earlier that morning, like my cousin, 3 Dora, she lives with me, and that morning 5 early Raymond came by the house, he and 6 another guy, and it was Bobby Denson, and I 7 had just gotten through getting the kids off 8 to school, and we were sitting around in my 9 bedroom because my apartment is one bedroom, 10 and I use the living room as a bedroom for 11 the kids, and we was in my bedroom and Raymond 12 said, like, 'we are going to rob a bank', and 13 we laughed at him and that is all. 14 Q Wes-Bobby Lee Denson in the same room 15 when he said, 'we are going to rob a bank'? 16 A Yes. 17 Q And was anything else said about 18 robbing a bank that morning? 19 A No." 20 Have I read that correctly, having seen that for the 21 first time since you testified before the Grand Jury. 22 you tratified that Raymond Jones said, "we are going to 23 rob a bank", and you said, "we laughed at him"? 24 Yes.

1	A	Dora and I, my cousin Dora.
2	Q	What about Bobby, did he laugh?
3	A	I don't believe so. I don't know, because when he said
4		it, like, we looked at him.
5	Q	Looked at who?
6	A	Raymond. And Bobby, like Bobby, he was kneeling on
7		his knees, or sitting on a stool that I had, and he
8		had lay his head down.
9	Q	And you and Dora laughed at him?
10	A	Yes.
11	Q	Let me see if I am correct, Rose Lee. Later that day
12		Raymond came over and saw you, and that was the second
13		time you saw Raymond that day; correct?
14	А	Yes.
15	Q	Am I also correct that that is the last time that you
16		saw Raymond that day?
17	A	No.
18	Q	How many times did you see him?
19	\mathbf{A}_{γ}	Three.
20	Q	Three times?
21	A	Yes.
22	Q	Did there come a time when Raymond was in your presence
23		and he was in the company of Kelvin Broadwater?
24	A.	Yes.
	ii.	

Do you also recell that in the same company was a fellow

1		by the name of Bobby Allen?
2	A	There was emother guy there, and I was confused about
3		his name.
4	Q	As a matter of fact, weren't there four people, Bobby
- 5		Allen and somebody else's name you didn't know?
6	A	Yes.
7	Q	So Bobby Allen was there?
8	A	This guy was there, I don't know if his name is Bobby
9		Allen.
10	Q	Did you testify at the grand jury, that Bobby Allen was
11		there?
12	A	I told him there was a Bobby Allen but I was not sure
13		of his name.
14	Q	And there were four people, Broadwater, Jones and Bobby
15		Allen and one who you don't know?
16	A	Yes.
17	Q	And Bobby Denson was not there?
18	A	No.
19	Q	And was it at that time that you had seen the money?
20	A	I had seen it before.
21	Q	Who gave you the money?
22	A	Raymond.
23		THE COURT: Was the money in currency?
24		THE WITNESS: Yes.
25		THE COURT: Bills?

1	THE WITNESS: Yes.
2	
3	THE COURT: What denomination? Do you
	remember?
4	THE WITNESS: There was a lot of it.
5	Like there was thirteen one hundred dollar
6	bills.
7	THE COURT: Thirteen one hunared dollar
8	bills?
9	THE WITNESS: Yes. And fifties and fives
10	and ones.
11	BY MR. MICHAELS:
12	Q And Raymond gave you that money?
13	A Yes.
14	Q After Raymond gave you that money, did you put some of
15	it in your bra?
16	A Like when Raymond came to the house he axed me to go
17	with him.
18	Q Did he come alone the second time?
19	A Yes. He wanted me to do a favor.
20	Q And when you spoke with him was it just the two of you?
21	A Yes.
22	Q Go shead.
23	
24	A He axed me to go with him up to his house. At that time
25	my brother was there, came in, his name is Billy, so
	he axed Billy to babysit for me, and Billy said, "O.K."

	- 1		
	1		so we went outside and that is when we met Bobby and
	2		Kelvin and Raymold told them to stay there until he
	3		came back.
	4	Q	And then you and Raymond had a private conversion?
	5	A	Not really.
	6	Q	Did they stay there until he came back?
	7	A	We left them there. They went in the house.
	8	Q	Then you and Raymond had a conversion by yourselves?
	9	A	No, not really.
	10	Q	Then I am comfused. When did Raymond give you the two
	11		hundred dollars?
	12	A	At his Aunt's house.
	13	Q	Wes that before he gave you the rest of the money?
	14	A	No, he gave me the two hundred dollars like when I was
	15		at Lillie Mae's house.
	16	a	Lillie Mae who?
	17	A	Brown.
,	18	a	When did he give you the thirteen one hundred dollar
	19		bills and this other ourrency?
	20	A	After we left my house, after Bobby and Kelvin went
	21		upstairs.
	22		THE COURT: Booky then went upstairs?
	23		THE WITNESS: Right. We went down and
	24		got a ride to Raymond's mother. We went in
	25		the house. I was in the kitchen and Raymond

1	was upstairs. In a few minutes like Bobby and
2	Kelvin came in and they were all upstairs.
3	THE COURT: Were they all there when he
4	gave you the money?
5	THE WITNESS: No. No one was there but
6	Kolvin.
7	THE COURT: Nobody was there but Kelvin?
8	THE WITNESS: Kelvin, Raymond's sister,
9	and enother girl.
10	THE COURT: Was Raymond there?
11	THE WITNESS: Yes.
12	THE COURT: So Kelvin and Raymond were
13	there when he gave you the money?
14	THE WITNESS: Right.
15	THE COURT: And not Bobby?
16	THE WITNESS: No, Bobby was gone.
17	BY MR. MICHAELS:
18	Q Which money did you get first, the one with the thirteen
19	hundred dollar bills or the two hundred dollars?
20	A The money will all the hundred dollar bills.
21	Q And that was the money that you put in your bra?
22	A Yes.
23	Q And later you put it in the closet?
24	A Yes, I put it in the closet.
25	a And them later, the third time that day, you saw Raymon

1 /		and he gave you the two hundred dollars?
2	A	Later that day Raymond came back to the house and gave
3		me the money.
4	Q	And he was alone at that time?
5.	A	No, Kelvin was with him and my cousin Dora.
6	Q	There was a lady here this morning. Do you know who
7		that lady was that sat down when you testified?
8	A	That came in?
9	Q	Yes, she was sitting in the corner. Was that Dora?
10	A	No.
11	Q	Who is that?
12	A	My cousin Emma.
13	Q	And now Raymond came back and then you gave him this
14		paper bag with the money he had given you earlier?
15	A	Yes.
16	I	And then when you gave him that money, he gave you the
17		two hundred dollars?
18	A	No.
19	Q	Under what circumstances did he give you the two hundred
20		dollars?
21	A	He said he was going to leave my house because he didn't
22		want me to have any trouble. He asked Lillio Mae if
23		he could go to her house and she said, "alright". At
24		that time I went to the store and when I got back
25		Reymond, Kelvin and Dora and those other two persons

1		were there. Right after I got back there, about five
2		minutes, they left. Raymond and Dora went to Lillie
3		Mae's house. Kelvin, I don't know where he'went, and
4		the other guys left. Ten or flifteen minutes later,
5		Raymond's mother came and asked where was Raymond. I
6		took her across the street where he was, that was in
7		Lillie Mae's bedroom and he told his mother to take him
8	and the same	home, and then as they were leaving he gave me the
9		two hundred dollar bills.
10	Q	When you said, in your testimony, that Raymond said,
11		"we are going to rob a bank", now make sure, this is
12		a serious case, are you testifying that those are the
13		exact words that he used?
14	A	I guess.
15	Q	You could not be mistaken? He couldn't have said
16		"I am going to rob a bank"?
17	A	I don't know exactly what he said now, because I forget.
18		There was that time when I had
19	Q	In other words I beg your pardon, did you want to
20		finish?
21	A	I said from the time the bank was robbed, I have forgot.
22		I am not sure what he said, but at the time I was at
23		the grand jury I had remembered, so I guess that is
24		what he said.
25	0	The grand jury was whom, in November?

1	A I have forgotten. I am not good on dates.
2	MR. MICHAELS: When was it, Mr. Welch?
3	MR. WEECH: November 8th.
4	BY MR. MICHAELS:
5	Q Mr. Welch tells me your testimony was taken at the
6	grand jury about November 8th. Would that refresh your
7	recollection?
8	A Not really.
9	Q Does it seem right that it was early in November when
10	you went to testify?
11	A Yes.
12	Q Does it seem right that it was about two months after
13	this incident that you testified at the grand jury?
14	A Yes.
15	Q All right. And again I ask you, are you absolutely
16	positive that those were his words?
17	MR. WELCH: I think the witness has
18	answered.
19	MR. MICHAELS: I don't think she had.
20	I think she indicated she was confused. I
21	think I have the right to proceed on this
22	further.
23	THE COURT: All right. I will let her
24	answer. Answer yes or not. Are you absolute
25	positive that he said, "we are going to rob a
	, Jan 19 19 19 19 19 19 19 19 19 19 19 19 19

1	bank"?
2	THE WITNESS: No.
3	MR. MICHAELS: O.K.
4	THE COURT: What is your best recollection
5	Is it your best recollection that is what he
6	said?
7	THE WITNESS: Yes.
8	BY MR. MICHAELS:
9	Q Now you weren't sitting there taking notes?
10	A No.
11	Q As a matter of fact there are a number of things that
12	even on November 8th, when you testified in the grand
13	jury, there were a number of things on that day that
14	you couldn't remember; isn't that correct?
15	A I don't think so.
16	Q Don't you recall when you were asked what he was wearing
17	that day when he had this conversation with you, and
18-	you couldn't remember?
19	A No, I could remember what he was wearing.
20	Q Could you remember what Raymond had been wearing that
21	morning?
22	A Not that morning.
23	Q But it is a fact that you remember specifically this
24	conversation but you can't remember what he was wearing
25	is that correct?

1	A	Right,
2	Q	You don't recall whether he was wearing a sweater,
3		shirt or cap or what?
4	A	No.
5	Q	Or if he was wearing something, whether it would be
6		green or red or yellow?
7	A	No.
8	Q	That would be easy to remember but you don't remember,
9		do you?
10	Α	No.
11	Q	And now Rosa Lee, am I correct that before you testified
12		before the grand jury in connection with this case,
13		you retained an attorney?
14	A	What do you mean?
15	Q	Didn't you have a lawyer represent you before you
16		testified before the grand jury in this case?
17	A	Yes.
18	Q	And who was your lawyer?
19	A	Paul Germain.
20	Q	And wasn't the reason you had this lawyer was due to
21		the fast
22		MR. WELCH: Objection, Your Honor.
23		THE COURT: Overruled.
24		MR. MICHAELS: I have not completed the
25		question yet.
	11	

1		THE COURT: No, but he anticipates it.
2		Finish your question.
3	Q	Isn't it a fact that the reason you had a lawyer is
4		because you had already been charged by the Syracuse
5		Police Department with receiving stolen property?
6	A	Professional stolen property.
7	Q	Right. And what happened to that case?
8	A	It was postponed until June 6th.
9	Q	Of 1974?
10	A	Of 1974.
11	Q	And isn't it a fact that the first thing that happened
12	•	when you testified before the grand jury, Mr. Welch,
13		said, do you recall, "I talked to your lawyer." In fact,
14		isn't this the very first thing that was said after you
15		were introduced, beginning at page 97, of Exhibit 3509,
16		at line 18, question by Mr. Welch:
17		"Q On September 12th, 1973".
18		I beg your pardon. Let me back up to line
19		12:
20		"Rosa Lee, there are some things that I
21		want to talk to you about in front of the
22		ladies and gentlemen of the grand jury before
23		we start asking you any questions. Are you
24		aware of what this grand jury is investiga-
25		ting?
	II .	

1		A Yes, the bank robbery.
2		Q On September 12th, 1973 in Syracuse,
3		New York. Now, before you came in to testify
4		today, either today or yesterday, did you
5		have a chance to talk with an attorney who
6		represents you?
7	-	A Yes.
8		Q O.K. And he told you that he and I
9		spoke, is that correct?
10		A Right.
11		Q And that we agreed, your attorney and
12	June 1	I, we agreed that this grand jury or the
13		United States Attorney's Office was not
14		interested in prosecuting anybody for receiv-
15		ing the money from that bank robbery. Is
. 16		that correct?
17	and the second	A Right.
18	and the second	Q And we are going to ask you about that
19		money, and where you got it, but you are not
20		going to be presecuted for getting any of
21		that money, is that correct? Is that your
22		understanding?
23		A Right.
24		Q And now in regard to that bank robbery
25		it is my understanding, and it is the grand

	1		jury's understanding that you did, in fact,
	2		receive some money from that bank robbery,
	3		is that correct?
	4		A Yes.
	5		Q How much money did you receive?
	6		A Two hundred dollars.
	7		Q Two hundred dollars? From whom did
	8		you receive that money?
	9		A Raymond Jones."
	10		Did I read that correctly?
	11	A	Yes.
	12	. Q	So that you testified before the Grand Jury you and
	13		your lawyer, you made a deal with the government
sgr	14	A.	Correct.
	15	C.	And if you cooperated you wouldn't be prosecuted,
	16		correct?
	17	A	I guess so.
	18	Q	Even though you apparently committed a crime, correct?
	19	A	I had committed a crime?
	20	Q	Yes, even though you knew there was going to be a bank
	21		robbery and had taken the money from the bank robbery
	22		and kept it.
	23	A.	I didn't know there was going to be a bank robbery.
	24	Q	In other words, it was a big joke when Raymond told
	25		you?

1	A	Yes. We laughed about it.
2	Q	And two months later your best recollection under
3		immunity, you suddenly remembered the exact words?
4		MR. VELCH: Objection, Your Honor. The
5		question is argumentative.
6		THE COURT: Sustained.
, 7	BY MR	. MICHAELS:
8	Q	Who is Bojack?
9	Α	I have no idea.
10	Ω	Was there semebody by the name of Bojack at your house?
11	A	Not that I know, unless it was one of the two guys who
12	w-tu	was at the house that I didn't know.
13	Q	In other words, that might be the nickname for the other
14		fellow?
15	A	Right.
16	Q	As far as you were concerned, Rosa Lee, when you receive
17		money on the 12th of September from Raymond Jones, as
18		far as you were concerned this was his money. It didn't
19		belong to anybody else. It was his money?
20	A	I guess so.
21	Q	In fact your grand jury testimony reflects that on
22		several occasions you said to Raymond, I wanted him to
23		get his money out of my apartment?
24	A	He is the one who gave it to me.
25	Q	You didn't say "their meney", you said, "his meney",
A CONTRACTOR OF THE PARTY OF TH		

1	correct?	
2	A Yes.	
3	Q And of course Raymond has already pled guilty to this	
4	bank robbery, hasn't he?	
5	A I don't know.	
6	THE COURT: Did you ever count the	
7	money that you put in the bag?	
8	THE WITNESS: No, but when Raymond came	
9	back to the house the second timethe	
10	third time, he put it on the bed, and he had	
11	the money in his hands and he counted like	
12	thirtoen one hundred dollar bills.	
13	THE COURT: And there were other bills,	
14	you told me?	
15	THE WITHESS: Yes, there was a lot of	
16	money. Fiftles, tens.	
17	BY MR. MICHAELS:	
18	Q Now in connection with these charges which you say have	
19	been postponed in the City Court of Syracuse, is that	
20	in the City Court of Syracuse or the County Court?	
21	A I don't know.	
22	Q Well are you still represented by a lawyer in connection	
23	with those charges?	
24	A Yes.	
25	a And still by Mr. Germain?	

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- A
- 17
- For who? A
- 18
- Well with all of them, with Demson, Jones and Broadwater? 0
- 19
- Upstairs? A

day?

You.

- 20
- Yes. Do you remember there was a hearing upstairs that 0
- 21
- 22 A
- 23
- You didn't go to the hearing, did you? 0
- 24

25

I had to be downstairs I think for Court. Anyway, after it was over my cousin Dora asked me to go up there with

	#	240
ì		her, and I went up there for awhile and then left.
2	Q	But you recall that you were asked at one timewith-
3		drawn. How did the police or the F.B.I. first learn
4		of your involvement in this case? Did somebody come to
5		you or you go to the police?
6	A	The police came to me.
7	Q	Didn't you go asking about a reward?
8	A	No.
9	Q	You nover did?
10	A	No.
11	Q	Now before you testified before the grand jury under
12		questioning by Mr. Welch, did Mr. Welch ever personally
13		meet you and discuss this case with you?
14	A	I beg your pardon?
15	-Q	You testified on November 8th before the grand jury?
16	A	Right.
17	Q	I think we are correct on that. Before you went into the
/18		grand jury, did you ever meet with Mr. Welch, the
19		gentleman at this table?
20	A	Not that I recall.
21 22	Q	You ever meet with any of the other United States
23		Attorneys?
24	A	No.
25	Q	Did you ever meet with any of the Onondaga County District
		Attorney's Office?

1	A	No.
2	Q :	Did you ever meet with any other men of the F.B.I?
3	A	There was a couple of F.B.I. men came to my house and
4		asked me to come down to their office.
5	Q ·	To talk to them at their office?
6	A	No.
7	Q	You talk to any of the detectives of the Syracuse Police
8		Department?
9	A.	No.
10	3	So basically what you are telling us is that you went
11-		into the grand jury two months after this incident,
12		you pretty much went in cold. In other words, you have
13		not gone through this many times before?
14	A	No.
15	Q	And you did tell the grand jury, did you not that the
16		reason you were giving them the answers you were, and
17		the reason you were answering Mr. Welch's questions
18		was because you didn't want to get in trouble?
19	А	I said that I didn't want to get into any more trouble
20		than I had.
21	Q	How about the past? How about trouble in relation to
22		this case?
23	A	What do you mean?
24	Q	Did you tell the grand jury that you didn't want to get
25		in thouble?

1	A	I probably told them that. I didn't want to get in
2		trouble. I was just telling them what I knew. They
3		asked me what I knew.
4	Q	Let's see if this is right. Do you remember on page
5		112, line 10, the question was:
6		"Q O.K. You won't get anybody in
7		trouble if you answer, you know, because
8	4.	we want to find out if anybody can tell us.
9		A I will tell you everything I know
10		because I don't want to get in trouble."
11		Is that correct?
12	A	Yas.
13	Q =	I can't understand how or when Mr. Welch told you, but
14		he gave you the question right there in the grand jury
15		and said, "you tell us what you know and nobody will
16		get in trouble." Is that what he told you? That if you
17		said what you knew about other people, you won't get in
18		trouble?
19	Α	If that is what is down there.
20	Q	After you were told by the U.S. Attorney if you testifi
21		about these people that nobody would get in trouble,
22		were you surprised a few days later to find out that the
23		three of them had been indicted?
24	A	Not actually.
25		MR. HICHAHLS: Thank you.

1	RE-DIRECT EXAMINATION
2	BY MR. VELCH:
3	Q Rosa Lee, would you, if you know, tell us the relation-
4	ship of Dora Mae Bolden and Raymond Jones?
5	A At the time that was his girlfriend.
6	MR. WELCH: No further questions. Thank
7	you, Your Honor.
8	MR. MICHAELS: Thank you ma'an.
9	THE COURT: The witness is excused.
10	(Witness excused).
11	MR. WELCH: United States calls Frank
12	Serdino.
13	FRANK SARDINO,
14	called as a witness in behalf of the Government,
15	being first only sworn, was examined and testified
16	as follows:
17	DIRECT EXAMINATION
18	BY MR. WELCH:
19	O Mow, Mr. Sardino keeping your voice up good and loud
20	so everyone can hear you, will you tell the ladies and
21	gentlemen how you are employed?
22	A City of Syracuse, Department of the Police.
23	Q Were you so employed on September 1973?
24	A I was.
25	And in September 1973, what were your duties in the City

1		of Syracuse in the Department of Police?
2	Λ	I was assigned as an investigator with the Criminal
3		Investigation Bureau.
4	Q	Would it be fair to say part of your duties was to
5		investigate bank robberies?
6	A	Yea.
7	Q =	I would like to direct your attention specifically to
8	7	September 12, 1973. Well, let me ask you this. Do you
9		remember a bank robbery in the City of Syracuse in the
10		month of September, 1973? Would you know about that?
11	A	Yes.
12	,	MR. MICHAELS: Objection.
13		THE COURT: I will allow it.
14	Q	I dfdn't hear your answer?
15	Λ	Yos.
16	Q	Tell the ladies and gentlemen of the jury how many bunk
17		robberies there were in the month of September. 1973
18		in the City of Syracuse?
19	Α	One
20	Q	Where was that bank robbery?
21	A	That was at the corner of Lexington and Cherry Streets,
22		the First Trust Bank.
23	Q	Do you know if there were any other bank robberies in
24		the City of Syracuse between September and Movember,
25		1973?

1	A	To my knowledge, there were none.
2	Q	Directing your attention to September 12, 1973, were
3		you present when Mr. Raymond Jones was arrested for bank
4		robbery that night?
5	A	Yes.
6	Q	On that day did you have occasion to talk to Mr. Raymond
7		Jones?
8	A	Yes.
9	Q	And on that day, September 12, 1973, did he tell you
10		who else was involved with him in the bank robbery on
11		September 12th, the day he was arrested?
12	. V	He mentioned the name of another fellow.
13	Q	Did he mention the name of Bobby Lee Denson?
14	A	No.
15	Q	Did he mention the name of Kelvin Broadwater?
16	A	Yes.
17	Q,	Directing your attention to September 14, 1973, did you
18		have occasion to interview Raymond Jones that day?
19	A	Yes.
20	Q	And on that day did he mention the names of any other
21		bank robbers with him?
22	A	Yes.
23	Q	Tell us exactly what he told you and how it came about?
24	Α	We were engaged in a conversation in the Squad Room
25		of the Criminal Investigation Division.

1	Q	Who is the "we" you are referring to?
2	A	Raymond Jones, myself, Investigator Andrew Mrozienski,
3		Investigator Richard Walsh and several other officers.
4	Q	And this squad room, can you describe that to the
5		ladies and gentlemen of the jury?
6	A	It is a large room used by the investigators to write
7		the reports.
8	Q	Were there more people than just the people you
9		mentioned to us in that room on that day?
10	A	Yes.
11	C	Did you have a conversation with Mr. Raymond Jones,
12		you started to say, and I asked you to tell us about
13		his relating the bank robbers to you. Continue please.
14	A	We were sitting in the squad room and Raymond Jones
15		was using the phone periodically to contact his mother
16		in an arrangement, trying to make arrangements to get
17		back part of the money that was stolen. Between the
18		phone conversations we were discussing the bank robbery
19		with him, and he did mention the name of Kelvin Broad-
20		water being involved, and at one point he mentioned the
21		name of Bobby as the other person involved.
22	Q	Did he give you the last name with the name of Bobby?
23	A	Yes.
24	Q	And what was the name?
25	A	Decision.

1	Q Did he tell you anything about Bobby Denson's involve-
2	ment in the bank robbery?
3	A Yes. I showed him a photograph taken from the bank,
4	the surveillance photo
5	MR. WELCH: May I approach the witness,
6	Your Honor?
7	THE COURT: Yes.
8	BY MR. WELCH:
9	O Mr. Sardino, I hand you what has been marked in evidence
10	as Exhibit Musber 3. Is that the photo that you showed
11	to Mr. Jones that day?
12	A Yes.
13	Q Continue with what you were telling us.
14	MR. MICHAELS: What exhibit was that?
15	MR. WELCH: Eight.
16	A I showed this photo to Raymond Jones and I said to him,
17	"Would you point out which person was which." I just
18	wanted to see if I was right, and Raymond Jones pointed
19	out, "this is me."
20	Q Well if you would please, Mr. Sardino, will you take and
21	put a "J" undermeath the man that he said, "this is me".
22	MR. MICHAELS: Your Honor, may I inter-
23	pose an objection if the Court please. If
24	I understood his testimony, he said this
25	conversation took place on September 14, 1973

(Witness marks)

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24

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will show.

THE COURT: I went to instruct the jury

that this testimony can't be received or considered by you as any admission by the defendant that he was present at that robber. These statements were made by Jones after he had been arrested and therefore after this crime had been committed and any statements made by one of the co-defendant's or joint participants in a crime are not binding on any person who was absent during these conversations, and there is no showing here that this defendant, Denson, was present during these conversations. So they are not binding on this defendant and you may not consider them in determining the guilt or innocence of the defendant Denson. You may consider them, however, on the question of whether or not you believe Broadwater and Jones in their enswer to the questions put to them whether Denson was the man present. In short, they are received here solely on the questions of the plausibility, the credibility of Broadwater and Jones.

MR. WELCH: Thank you, Your Honor, for the instruction.

BY MR. WELCH:

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1	Q All right, now this is Mr. Jones speaking to you and
2 ·	describing who was who in that picture. He say emything
3	else to you that day that you recall about the bank
4	robbery?
5	A Well, he was talking casually about the whole incident,
6.	and I don't recall exactly what he did say except to
7	point out the picture and said, "this is Denson on the
8	other side of the counter." He said he was there, he
9	was over on the other side of the counter where the
10	money was.
11	THE COURT: I am in error. You can't
12	consider this on the credibility of Broad-
13	water's testimony, only Jones' testimony.
14	MR. WELCH: Thank you, Your Honor. I
15	have no further questions.
16	CROSS-EXAMINATION
17	BY MR. MICHAELS:
18	9 Mr. Sardino, you are, I believe you said, an investigator
19	with the C.I.D., Syracuse Police Department?
20	A That is correct.
21	Q And an investigation was made, correct? In fact,
22	charges were made in the Syracuse Court System as well
23	as the Federal Court System; isn't that right?
24	A What are you talking about?
25	Q You know that charges were made; you know there was a

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1		hearing before Juige Burke in the City Court, wasn't
2		there? A charge made in Syrecuse?
3	A	There was a charge placed against the defendant.
4	Q	Yes.
5	A	That's right.
6	Q	A charge of robbery, then the State authorities bowed
7		to the federal?
8	A	I don't know about that.
9	Q	There is no case pending over there now?
10	A	I have no knowledge of that.
11	Q	And as an investigator, you are a plain clothes investi-
12		gator?
13	A	Yes.
14	Q	And you make records of what you do?
15	A	Zos.
16	Q	Have you brought your records of these conversations to
17		Court today?
18	A.	No.
19		MR. MICHAELS: I object then, based on
20		the arrangements
21		THE COURT: Don't make any comments.
22		Make a motion.
23		MR. MICHAELS: Move to strike out all
24		his testimony.
25		THE COURT: Have you got all your records

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1	here?
2	THE WITHESS: No.
3	MR. MICHAELS: I reserve the right to
4	cross-examine.
5	THE COURT: Yes.
6	MR. WELCH: I have no further questions.
7	THE COURT: Return Tuesday morning with
8	any records or notes that you made of
9	conversations with Jones.
10	MR. WELCH: Nay we approach the Bench,
11	Your Honor?
12	THE COURT: Surely.
13	(The following discussion took place at
14	the Bench outside the hearing of the jury).
15	MR. WELCH: If Your Honor please, the
16	next witness was to be Mr. Richard Walsh,
17	another investigator from the Syracuse Police
18	Department with similar testimony about what
19	Jones said, in order to impeach Jones' testi-
20	mony at this trial. However, I am not certain
21	if he has his records with him.
22	THE COURT: I would have thought you
23	would have told him to bring his records.
24	My God. Well, we will take his testimony and
25	have him come back Ruesday with his records,

1	(The following took place outside the
2	prosence of the jury).
3	THE COURT: Mr. Michaels I have marked
4	your requests to charge. My rulings are in
5	the margins of your request. When you have
6	seen what they are, will you hand them to
7	Mr. Evans, so that they will form a part of
8	the record.
9	MR. MICHAELS: Yes, sir.
10	THE COURT: Call in the jury.
11	(At this point the jury was returned to
12	the Courtroom).
13	THE COURT: Good morning.
14	THE JURORS: Good morning.
15	THE COURT: All right, proceed.
16	FRANK SARDINO,
17	having previously been sworn, resuming the stand,
18	testified further as follows:
19	CROSS-EXAMINATION (Continuing)
20	BY MR. MICHAELS:
21	Q Mr. Sardino, when we broke off on Friday, I believe I
22	had requested that you bring with you the records con-
23	corning this conversation with Mr. Jones; is that
24	correct?
25	A Yes.

	1	
1	Q	Can you produce those records now please. Does Mr.
2		Welch have them or do you have them?
3	A	Mr. Welch.
4	Q	These have previously been marked as exhibits 3511,
5		3512 and 3513; is that correct, Mr. Sardino? Maybe
6		you have not seen the numbers. Will you verify that
7		please?
8	A	That is correct.
9	Q	If I am correct then these are the records that you
10		have produced which deal with your conversations with
11		Mr. Jones in which, as you said on direct examination,
12		he implicated Mr. Denson; is that correct?
13		Correct.
14	Q	Mr. Sardino, the other day you used a photograph, I am
15		not sure what number it was Mr. Welch probably has it
16		if you want it.
17	-4	(Photograph handed to Mr. Michaels by
18		the Court Clerk).
19	g ·	You used Exhibit 8. Is that the one that you used the
20		other day?
21	A	Yes, sir,
22	Q :	It appears to have some notations on it; is that right?
23		Yes.
24	Q 1	When you went back to Syracuse this weekend, did you
25		bring your records concerning the conversation with Mr.
		H. COURT CO.

U.S. COURT REPORTERS FEDERAL BUILDING ALBANY, N. Y.

79	Sardino - Cross
1	Jones; was there any photograph in the file?
2	A No.
3	Q What happened to the photograph that was in the file?
4	A Which one are you talking about?
5	Q The one you said you referred or pointed out the people
6	on it?
7	A I don't know what happened to it.
8	MR. MICHAELS: I offer 3512, 3513
9	I better lay more foundation.
- 10	Q Exhibits 3511, 3512 and 3513, these are copies of
11	original documents, are they not?
12	A Yes.
13	Q Ami this document, what do you call them? What is the
14	term that you use to describe these documents?
15	A Supplementary reports.
+16	Q Are these reports made in the regular course of business
17	of the Syracuse Police Department, Criminal Investigation
18	Division?
19	A Yes.
20	a And maintained in the regular course of business of the
21	Syracuse Police Department; correct?
22	A Yes.
23	MR. MICHAELS: May I have just a moment
24	to Look at them.
25	(Mr. Michaels peruses Exhibits 3511, 3512
1	U.S. COURT REPORTERS

•	
30	Sardino - Cross
	277
1	and 3513).
2	MR. MICHAELS: I offer Exhibits 3511,
3	12 and 13 in evidence.
4	THE COURT: May I see them?
5	(Documents handed to the Court).
6	THE COURT: Received.
7	(Exhibits 3511, 3512 and 3513 received
8	in evidence).
9	BY MR. MICHAELS:
10	Q Mr. Sardino, just a few additional questions. Going
11	back to the conversation that you had with Mr. Jones
12	on the 14th of September, do you also recall that he
13	made a statement in which he referred factually to the
14	stupidity of Kelvin Broadwater?
15	A Yes.
16	And do you recall that the substance of that statement
17	was that Kelvin Broadwater was clicking the gun and
18	nothing was coming out?
19	A Yes.
• / 20	Q It has been three days and I have been trying to recall
21	your testimony, but did you testify on direct examination

A Yes.

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O Did you further testify that Detective Mrozienski was

14th of September, it was in the squad room?

when you had this conversation with Mr. Jones on the

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1		there?
2	A	Yes.
3		MR. MICHAELS: Thenk you. I have no
4		further questions.
5		MR. WELCH: Nothing further, Your Honor.
6		THE COURT: You are excused.
7		(Witness excused).
8		MR. WELCH: . United States calls Dora
9		Mae Bolden.
10		DORA MAE BOLDEN,
11		called as a witness in behalf of the Government,
12	56	being first duly sworm, was examined and testified
13		as follows:
14		DIRECT EXAMINATION
15	BY MA	R. WELCH:
16	Q	Now Miss Bolden, when I ask you questions and you make
17		answers to the questions, will you keep your voice up
18		real loud so everybody here can hear you. Will you
19		tell the ladies and gentlemen of the jury where you
20		Lived in September, 1973?
21	A	608 Midland Avenue.
22	Q	Was that your house?
23	A	No.
24	Q	Whose house was it?
25	A	My cousin, Rosa Lee Armster.

1		THE COURT: Was that in Syracuse?
2		THE WITNESS: Yes.
3	BY M	R. WELCH:
4	Q	Directing your attention to September 12, 1973, did you
5		on September 12, 1973 know Raymond Jones?
6	A	Yes.
7	Q	Did you have occasion to see Raymond Jones that day?
8	A	Yes.
9	Q	Did you see Raymond Jones in the morning of that day?
10	A	Yes.
11	Q	Where did you see Raymond Jones?
12	A	At 508 Midland Avenue.
13	Q	Now what time was that?
14	A	About 8:30.
15	Q	The else was present?
16	А	Bobby Denson.
17	Q	And anybody else?
18	A	Rosa Lee Armstor.
19		MR. WELCH: I have no further questions.
20		Thank you, Your Honor.
21		MR. MICHAELS: You Honor, I have been
22		previously given this morning a copy of Miss
23		Boldon's testimony before the Grand Jury
24		so I don't need a recess.
25		CROSS-WIAMINATION

1	BY M	R. MICHAELS:
2	- Q	Miss Bolden, I show you what has been marked 3512. Have
3		you ever seen that document before?
4	A	No.
5	Q	This has been identified to me as your testimony before
6		the Grand Jury. You have not read that Grand Jury
7		testimony before you came in; is that correct?
8	- A	No.
9	Q	Dora, I refer to page 169 of your testimony, and ask
10		you if the following questions were asked and did you
11		give the following answers when you testified. Remember
12		it was Mr. Welch, this gentleman (indicating) who
13		examined you at the Grand Jury?
14	A	Yes.
15	Q	And that was probably in early November; is that correct?
16	Α	Yes.
17	Q	And so beginning at line 5 of 169:
18		"Would you like me'to call you Dora
19		or Miss Bolden, or what?
20		A Dora.
21		0 O.K., Dora. The Grand Jury is investi-
22		gating the alleged robbery of the Cherry and
23		Lexington Branch of the First Trust and
24		Deposit Company on September 12, 1973, and
25		we would like you to tell us all that you know

1		about that robbery; and if I forget to ask
2		you a question, and you think of something,
3		you go right ahead end tell us, 0.K?
4		A Yes.
5		Q Is Raymond Jones your boyfriend?
6		A He was at that time.
7		Q At that time?
8		A Yes.
9		Q And do you know whether or not he was
10		involved in the bank robbery?
11		A I don't know for sure. Like that
12		morning, before I want to school, like he
13		said he was going to rob a bank, but I
14		thought he was just joking and I laughed and
15		went off to school."
16	Did I r	sead that correctly and is that what you said
17	under o	sth?
18	A Yes.	
19	Q Then la	nter on you said, the question at 170, line 8:
20		"O.K. And he said he was going to rob
21		the bank?
22		A Yes."
23	And the	on the question:
24		"Was anybody also there when he said
25		that to you?

ŀ		A Bobby Denson.
2		Q And did Bobby Denson say anything
3		about robbing a bank?
4		A No."
5		Is that correct?
6	A	Yes.
7	Q	(Reading) "Did you tell him it was a joke and he
8		should be quiet?
9		A Before he left. They left and went
10		on down the street."
11		Is that correct?
12	A	Yes.
13	Q	You recall later on in the day you saw Raymoni again
14		and he had some money with him?
15	A	Yes.
16	Q	Dy Raymond you mean Raymond Jones?
17	s.	Yes.
18	Q	And are we talking about the same person?
19	A	Yes.
20	0	
21	A	And he had quite a bit of money with him?
22	Q	
23	À	Did he want to give you some money?
24	0	He didn't say anything about giving me any money.
25		When you saw Raymond Jones later that day he was with some other people?
		some other people?

1	A	Yes.
2	a	And one of them was Kag Broadwater?
3	A	Yes.
4	Q	That is with Kelvin Broadwater?
5	A	Yes.
6	Q.	Were there some other people with him?
7	A	Yes.
8	Q	Let me first say, were there any other men with him?
9	A	Yes.
10	Q	How many besides Kelvin?
11	A	Two.
12	Q	Were either of those other two people Bobby Denson?
13	A	No.
14	Q	And were they white or black?
15	A	Black.
16		MR. MICHAELS: I have no further
17		questions.
18		MR. WELCH: Nothing further, Your
19		Honor, thank you.
20		THE COURT: You are excused.
21		(Witness excused)
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1	MR. WELCH: United States calls Randall
2	Walker.
3	RANDALL WALKER
4	KANDALL WALKER
5	called as a witness in behalf of the Government
6	being first duly sworn, was examined and testi-
7	fied as follows:
8	DIRECT EXAMINATION
9	BY MR. WELCH:
10	Q Mr. Walker please keep your voice up good and loud so
- 11	everyone can hear you. Tell the ladies and gentlemen
12	of the jury how you are employed?
13	A I am employed at Jack's Place, a men's clothing store
14	in Detroit, Michigan.
15	Q What is the address?
16	A 191-88 Livinois.
17	Q Were you so employed in 1973?
18	A Yes, sir.
19	Q And tell me what was your, at that time, business procedure
20	when a cash purchase was made in your store?
21	A Either write his name, write cash or leave it blank.
22	Q On what?
23	A On the cash slip.
24	Q If a man made a char what would you write on the order?
25	A I would write it on a cash receipt and a charge.

1	Q	Was the man's name on the cash receipt?
2	A	It would be on the plate of the charge.
3	Q	Mr. Walker I hand you what has been marked as Exhibit
4	20,	No. 11 and ask you if you have seen that before?
5	A	Yes, I have.
6	Q	And where have you seen that before?
7	A	This is a cash receipt from my store, at Jack's Place.
- 8	Q	Let me direct your attention to the top line where it
9	•	says "Sold by".
10	A	Sold by Randall. That is myself.
11	Q	Is that prepared in the ordinary course of your business
12	i ka	in a cash transaction?
13	A	Yes.
14	Q	What date was that cash transaction?
15	A	It looks like I marked 9/12; then I wrote 9/14 over it
16	Q	Of what year?
17	A	173.
18	Q	And what is the total cash amount paid?
19	A	\$306.00.
20		MR. MICHAELS: Objection. It is not in
21		evidence yet.
22		THE COURT: Sustained.
23		MR. MICHAELS: And I ask the jury be
24		instructed to disregard the last question
25		and answer?

1	THE COURT: Yes. Disregard it.
2	MR. WELLCH: The United States offers it
3	in evidence.
4	MR. MICHAEIS: May I have a chance to
5	voir dire?
6	THE COURT: Yes.
7	VOIR DIRE EXAMINATION
8	BY MR. MICHAELS:
9	Q Mr. Randall I am sorry, I didn't get your full name.
10	A Randall Walker.
11	Q I beg your pardon, Mr. Walker. Mr. Walker, how big
12	is Jack's Place?
13	A About as big as this courtroom.
14	Q In other words a fairly large store?
15	A Yes.
16	Q How many people work there besides yourself?
17	A Five.
18	Q Is it a man's store exclusively?
19	A Exclusively a man's store.
20	Q Is it a busy store in September?
21	A Very busy store any time.
22	Q For example in September of 1973 approximately how many
23	transactions for the purchase of clothing do you believe
24	that the store, as a total, would handle on a given day?
25	A I couldn't tell you definitely.

. 1	Q Could you give me your best estimate?
2	A We handle several three hundred, five hundred dollar
3	sales per day and a thousand dollar sales each day.
4	Q So a three hundred dollar sale is not an unusual sale?
5	A No.
6	Q How much would you say your volume of business is per
7	day in gross sales?
8	A Sometimes five, ten thousand.
9	Q What would be your overage number of customers in the
10	store per day?
11	MR. WELCH: If Your Honor please
12	THE COURT: Sustained.
13	Q Mr. Walker you did say on direct examination that you
14	marked this on September 12th?
15	A That is what it looked like to me. I wrote "12" and
16	then over it "14".
17	Q Do you remember the particular transaction?
18	A No. Because as I said a three hundred dollar is not
19	out of the ordinary.
20	MR. MICHAELS: I object on the ground it
21	is not probative to the defendant and it can't
22	recall the particular transaction.
23	THE COURT: Let me see it.
24	(Document handed to the Court.)
25	THE COURT: Mr. Walker is this the

.1	mark up on the top left hand corner "sold by"
2	who is that?
3	THE WITNESS: That is me.
4	THE COURT: That is you. I will sustain
5	the objection.
6	MR. WELCH: May I be heard on that?
7	THE COURT: Sure. Come up here.
8	(The following discussion took place at
9	the Bench between the Court and counsel, outside
10	the hearing of the Jury.)
11	MR. WELCH: If Your Honor please, the
12	government's position is Agent Savage testified
13	that hat was taken from the person of Robert
14	Denson.
15	THE COURT: I missed that.
16	
_ 17	MR. WELCH: And this is my opportunity to
18	establish the cash transaction.
19	THE COURT: Don't worry about it. I didn't
20	get the link. I am in error. I overrule the
	objection.
21	(Government's Exhibit No. 11 for Identifica-
22	tion received in evidence.)
23	(The following proceedings took place in
24	open court before the Jury.)
25	
	MR. WELCH: If I may approach the witness

l	again, Your Honor.
2	THE COURT: Yes.
3	BY MR. WELCH:
4	Q Mr. Walker I previously asked you to tell the ladies and
5 . :	gentlemen of the jury what the dollar amount of that cas
6	transaction was. Will you tell them what that is?
7	A Three hundred six dollars.
8	Q For what was that?
9	Q One suit; three imports; one vest; one shirt; one tie
10	and two pair of trousers.
11	MR. WELCH: I have no further questions.
12	Thank you, Your Honor.
13	CROSS EXAMINATION
14	BY MR. MICHAELS:
15_	Q Mr. Walker, just a few additional questions. I think
16	you testifed when I asked you a few minutes ago, you did
17	not handle the particular transaction?
18	A No.
19	Q Then based on this cash slip you don't know the size of
20	the clothing that was bought; is that correct?
21	A That is correct.
22	Q You don't recall my client, do you?
23	A Who is your client?
24	Q This gentlemen at the table with me.
25	A No, sir.

1	Q You don't recall whether or not he was with anyone else?
2	A No sir.
3	Q You don't recall whether or not he may have been pur-
4 -	
5	else who was with him?
6	A No sir.
7	Q You don't recall whether somebody handed him some money
8	to purchase the clothing?
. 9	MR. WELCH: Objection. These questions
10	are all argumentative.
11	THE COURT: Oberruled.
12	MR. MICHAELS: Will you repeat my question
13	(The Court Reporter repeated the question
14	as above recorded.)
15	A No, I do not.
16	Q Might I ask you if on here, under the line "customer"
17	- you used the word New York, New York; is that correct?
18	A Correct.
19	Q Do you know or do you have any explanation as to why
20	you put down New York, New York on there?
21	A Apparently I asked the customer where he is from. Do
22	you follow me? He said "New York". I never asked him
23	his name or anything else.
25	Q In other words if he said "New York" you assumed it
20	would be New York City?

1	A Yes.
2	Q I notice you put down New York, New York. Would it
3	appear to you that the person who purchased these said
4	he was from New York City?
5	A Yes.
6	THE COURT: Or did you assume that?
7	THE WITNESS: Yes. I probably wrote
8	New York, New York. Like they say, New York
9	is so nice they named it twice. New York,
10	New York.
11	MR. MICHAELS: Thank you.
12	MR. WELCH: Nothing further; Thank you
13	Your Honor.
14	THE COURT: Thank you, Mr. Walker.
15	THE WITNESS: You're welcome.
16	(Witness excused.)
17	MR. WELCH: Your Honor, at this time the
18	United States rests.
19	THE COURT: All right. The jury may take
20	a short recess.
21	(At this point the Jury retired from the
22	courtroom.)
23	THE COURT: All right, Mr. Michaels.
24	MR. MICHAELS: If Your Honor please, at
25	this time on behalf of the defendant I respect-

the courtroom.)
MR. MICHAELS: Your Honor, if the Court
please, I would like to read Exhibit D, the
- stipulation, to the jury.
THE COURT: All right.
MR. MICHAELS: (Reading) "It is
hereby stipulated that if called Kelvin-Broad-
water would testify that the sawed-off shotgun-
used during the commission of the robbery was
not loaded. Signed Eugene Welch, Assistant
United States Attorney; Lee S. Michaels, De-
fendant's attorney.")
MR. WELCH: So stipulated.
MR. MICHAELS: Call Andrew Mrozienski.
ANDREW S. MROZIENSKI
called ask a witness in behalf of the Defendant
being first duly sworn, was examined and testi-
fied as follows:
DIRECT EXAMINATION
BY MR. MICHAEIS:
Q Mr. Mrozienski, em I correct you are an officer of the
Syracuse Police Department?
A Yes, sir.
Q Specifically a detective of the criminal investigation

1		bureau?
2	A	An investigator, sir.
3	Q	Were you here on Friday?
4	A	Here?
5	Q	Yes.
6	А	Yes, sir.
7	Q.	You were here at the request of Mr. Welch?
8	A	Yes.
9	Q	And you spent the day in Mr. Welch's office; is that
10		correct?
11	A	Yes.
12	Q	Then you were not needed by Mr. Welch; is that correct?
13	A	Right.
14	Q	Now, Mr. Mrozienski did you testify at a preliminary
15		hearing before Judge William J. Burke of the City Court
16		of Syracuse, on September 26, 1973?
17	Α	I don't remember what judge was presiding but I did go
18		there, yes.
19	9	Le t me show you an exhibit and see if that refreshes
20	s La de casant	your recollection. I show you Defendant's Exhibit B,
21		which is a transcript on a cover which is a cover
22		sheet of a transcript of testimony and appears to refer
23		to William J. Burke, City Court Judge. Does that re-
24		fresh your recollection?
25	A	Yes, sir.

1	Q	And you were examined at that time, were you not, by
2		the assistant district attorney from the Onondaga Count
3		District Attorney's office?
4	A	Yes.
5	Q	That would be Mr. Lupia?
6	A	Yes sir.
7	Q	Do you recall during your testimony you were asked to
8		describe your conversation with Mr. Jones?
9		MR. WELCH: Your Honor, I abject/this
10		question as irrelevant at this time.
11		THE COURT: Sustained. Put the direct
12		question.
13	Q	Did you testify?
14		THE COURT: No. The underlying facts.
15		Now what he said on some other occasion.
16		MR. MICHAELS: I believe that this wit-
17		ness should be qualified as hostile and I should
18		be allowed to cross examine.
19		THE COURT: Put the direct question to
20		him and then we will see what happens
21	BY N	R. MICHAELS:
22	Q	Mr. Mrozienski referring to this Exhibit B, have you
23		looked at this exhibit in company with Mr. Welch before
24		testifying?
5	Α	No, sir.

	1	
	1	THE COURT: Just ask him the question.
	2	Then use Exhibit B if you have to.
	3	BY MR. MICHAELS:
	4	Q Mr. Mrozienski were you present in the squad room on
	5	the 14th of September, 1973, when Mr. Jones was being
	6	interrogated by Officer Sardino?
	7	A Yes sir.
	8	Q Are you aware that Officer Sardino has said that Mr.
Lania.	9	Jones implicated Mr. Denson at that time?
	10	A Said when?
	11	Q In court here.
	12	A No, sir.
	13	Q You are not aware of it? He never mentioned it to you?
	14	A What he said at court?
	15	Q Yes.
	16	A No, sir.
	17	Q You were present the whole time; is that right?
	18	A No, sir.
	19	Q Were you in and out?
	20	A Yes, sir.
	21	Q Did you make any on the 14th of September, did you
	22	learn from Officer Serdino that Mr. Jones had made a
	23	statement implicating Mr. Denson?
	24	A Yes, sir.
	25	Q Did you make a record of it?

1	A	No sir.
2	Q	And on September 26, 1973, twelve days after you learned
3		of this statement did you refer to that in your testimony
4		before Judge Burke?
5	A	The statement from Investigator Sardino?
6	Q	Yes.
7	A	No, sir.
8	Q	Was Officer Sardinc called before that particular hear-
9		ing?
10	Α	That is correct, sir.
11	- Q	Are you aware of the result of that preliminary hearing?
12		MR. WELCH: Objection.
13		THE COURT: Sustained.
14	Q	Were you in charge of this investigation or was Officer
15		Sardino?
16	A	I was in charge of negotiating for the money that Raymond
17 *		was going to give back.
18	Q	What is Officer Sardino's position in the precinct, is
19		it on the same level or subordinate to you?
20	A	On the same level.
21	Q	Do you know whether he made any reports?
22	A	I don't know.
23	Q	You are aware that on Friday I asked that certain reports
24		be produced here; correct?
25	A	Yes, sir.

1	Q	And certain reports were brought here and I believe they
2		bear your signature. I believe 3411, 12 and 13 bear
3		your signature; am I correct?
4	A	Yes sir.
5	Q	Those are copies of your signature?
6	A	Yes sir.
7	Q	These are photogopies. Did you do anything this past
8		week end to look for records at the Syracuse Police
9		Department?
10	A	Yes, sir.
11	Q	Did you find anything other than these three exhibits?
12	A	No sir.
13	Q	Did you find any photographs?
14		MR. WELCH: Your Honor, I object to this.
15		It is all/relevant.
16		THE COURT: Overruled.
17	Ą	No sir.
18	Q	Were there any photographs in the file?
19	A	I didn't look through the file for any photographs.
20	Q	You didn't look for photographs but in looking through
21		the file did you find any photographs?
22	A	No. Not the file that Investigator Sardino had.
23	Q	Now Exhibit C for Identification, does that also bear
24		your signature?
25	A	Yes, sir.

1	Q	That is an affidavit?
2	A	Yes, sir.
~ .3	Q	And was the original of that exhibit, Exhibit C, in your
4		file when you looked this week-end?
5	A g	I don't remember.
6	વ	Did you make any other affidavits other than Exhibit C?
7	A	Not that I recall.
8		MR. MICHAEIS: Offer Exhibit C in evidence
9		- MR. WELCH: Objection, Your Honor.
10		MR. MICHAELS: Showing his signature
11		May I ask another question.
12	Q	Mr. Mrozienski, what is Exhibit C prepared for? Is it
13		a police record or what?
14	А	That affidavit?
15	Q	Yes.
16	A	That is part of the errest.
17	Q	But this is a record that is prepared in the regular
18		course of your business in the police investigation
19		field; is it?
20	A	No, sir.
21	Q	You, when you take statements from other witnesses you
22		take them on a similar type of sheet; is that correct?
23	A	No sir. Oh, from Witnesses?
24	Q	Yes.
25	A	Yes, sir.
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1	ૡ	You use that same form that has the printing on the
2		bottom about having read that statement?
3	A	Yes, sir.
4	Q	So this statement, Exhibit C for Identification, was
5		made in the regular course of business of the Syracuse
6		Police Department:
7	A	Yes, sir.
8	କ	And it hears your signature?
9	A	Yes, sir.
10		MR. MICHAELS: Offer it in evidence.
11	-	THE COURT: Let me see the statement.
12		(Exhibit C for Edentification handed to
13		the Jourt.)
14		THE CCURT: Could you come up, please.
15	6	(The following discussion was held at
16		the Bench between Court and counsel, outside
17		the hearing of the Jury.)
18		THE COURT: I have never seen anything like
19		this in my life. What do you offer this for?
20		MR. MICHAELS: I offer it because I am
21		not trying to determine the entire extent of the
22		police's fault but I believe the fact that
23		there was a statement committed to an affidavit
24		at one time and the fact he did not reveal it
25		goes the the credibility of the testimony.

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THE COURT: I don't understand what you are trying to do with it.

MR. MICHAELS: I want the entire police file, as much as I can get, to be in evidence.

THE COURT: Why?

MR. MICHAELS: Because none of it refers to this alleged statement made by Jones, and I think it goes to the credibility.

THE COURT: You offer this to impeach the police officer; is that your purpose?

MR. MICHAELS: In essence, that is correct.

And as a business record.

THE COURT: How does this impeach the police officer? There is no statement by the police officer.

MR. MICHAELS: But it is offered to show the entire investigation and that is all the records they can produce and all the records they can produce has no mention of anything referring to my client. And it is a question of the jury to determine the credibility of the witness and credibility of their impeaching evidence is in issue, Your Honor.

THE COURT: What do you say?

MR. WELCH: It is our position it is not

·	probative of any impeaching material, Number One
2	because it is dated September 13th, the material
3	about Which counsel has identified about Mr.
4 .	Jones. Secondly it is not inconsistent with
5 5	what he said here, and the best evidence is the
. 6	witness on the witness stand. I oppose the
7	offer.
8	THE COURT: I will take it for what it is
9	worth. It is pretty far out but I will take
10	it.
11	(Defendant's Exhibit C for Identification
12	received into evidence.)
13	BY MR. (At this point the following took place
14	in open court with the jury present.)
15	BY MR. MICHAELS:
16	Q Mr. Mrozienski I think you used the phraseology that
- 17	you were negotiating for the money?
18	A Yes sir.
19	Q What do you mean by that?
20	A Between Raymond, his mother and a Rosalie Armster.
21	Raymond was hollering at his mother. I was talking to
22	his mother and it was a matter of getting the money
23	back. I was trying to take the mother around to the
24	side and keep the papers off her trail and I was ex-
25	plaining nobody was going to arrest her.

1	Q	Did you use the word "negotiate"?
2	A	Yes.
3	Q	If I understand negotiating, my understanding is that
4	-	each party gives something up in an effort to reach
5		a compromise; is that right?
6	A	Yes.
7	Q	Would you acknowledge that the word "negotiate" was an
8		improper term for what you were doing?
9	A	Yes.
10	Q	You were just trying to get the money?
11	A	Yes.
12	Q	And how much money did you get?
13	A	I believe it was three thousand two hundred swenty-five
14		dollars.
15	Q	And that came from Raymond's mother?
16	A	Not all of it, no sir.
17	Q	All right. Most of it?
18	A	Yes, sir.
19	Q	And then some money came from Mrs. Armster?
20	A	Yes sir.
21	Q.	I think about three hundred dollars?
22	A	No, sir.
23	Q	How much?
24	A	Two hundred.
25	9	Anything else come from anybody else?

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1	A	Yes, sir. One hundred dollars from enother woman.
2	Q	Who was that?
3	A	I am not positive.
4	Q	Does your report indicate?
5	A	Yes.
6	Q	Lila Mac Brown?
7	A	Yes.
8	Q	That is on 5515 in evidence. You got the bulk of this
9		money apparently from Mrs. Lily Applina?
10	A	Yes, sir.
11	Q	And that was Mr. Jones' mother?
12	A	Yes sir.
13	- Q	And then you got two hundred dollars in one payment
14		from Rose Armster?
15	A	Yes, sir.
16	Q	And three dollars, simty dollars, thirty and ten dollars
17 .		from Lila Mee Brown?
18	A	That is six hundred that is fifteen I believe. That
19		was one payment. It was broken down.
20	Q	In what amount of bills?
21	A	Three ones, and three tens.
22		MR. MICHAELS: Thank you. No further
23		questions.
24		CROSS EXAMINATION
25	BA	MR. WELCH:

.1 .	Q Mr. Mrozienski, this defendant's exhibit C in evidence
2	could you tell the ladies and gentlemen of the jury what
3	date it is that you signed that affidavit?
4	A This is on the 13th day of September. Zero. This is
5	on the 13th day of September.
6	Q You testified earlier about, or you mentioned in respons
7	to Mr. Michaels' questions something about Mr. Sardino
8	interviewing Mr. Jones in the squad room.
9	A Yes, sir.
10	Q What date was that interview in the squad room?
11	A It was on the 14th.
12	MR. WELCH: No further questions.
13	REDIRECT EXAMINATION
14	BY MR. MICHAELS:
15	Q During that interview in the squad room how long, if
16	you know, did Mr. Sardino interview Mr. Jones?
17	A I don't recall.
18	Q Can you give me an approximation when the interview
19	began and when it ended, or the amount of hours?
20	A No sir. I was in and out of the office.
21	Q How much of time what percentage of the time that he
22	was interviewing Mr. Jones were you present?
23	A In the squad room?
24	Q Yes.
25	A Several hours. I don't know exactly how long but I

_1 ,	had been in and out for several hours.
2	Q One other question. These Exhibits 3511, 12 and 13,
3	you referred to them-as supplemental reports?
4	A Yes sir.
5	Q You obviously made these out. As Detective Sardino also
6	authorized to make these reports out?
7	A Yes sir.
8	Q In other words it wouldn't be necessary for him to report
9	to you so that you would put down in the supplemental
10	reports what he told you?
11	A Right. I just put in what I did.
12	Q And he didn't file any of these; is that correct?
13	A I don't know.
14	MF. MICHAELS: Thank you.
15	MR. WILCH: Nothing further. Thank you,
16	Your Honor.
17	THE COURT: You are excused.
18	(Witness excused).
19	MR. MICHAELS: Defendant rests.
20	THE COURT: Defendant rests. All right.
21	The jury may take a short recess.
22	(At this point the jury retired from
23	the courtroom.)
24	MR. MICHAELS: I will renew the same
25	motions made about ten or fifteen minutes ago,

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DEFENDANT'S PROPOSED INSTRUCTIONS

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DEFENDANT'S PROPOSED INSTRUCTION NUMBER 1

You are instructed to resolve any conflict or uncertainty on the issue of identification. You are instructed that identification may be made through the perception of any of the witness' senses. and that it is not essential that the witness himself be free from doubt as to the correctness of his opinion. The identification testimony may be treated by the jury as a statement of fact by the witness: (1) if the witness had the opportunity to observe the accused; (2) if the witness is positive in his identification; (3) if the witness' identification testimony is not weakened by prior failure to identify or by prior inconsistent identification; and (4) if, after cross-examination, his testimony remains positive and unqualified. the absence of any one of these four conditions. however, you are admonished that Mr. Isaacs' testimony as to identity must be received with caution and scrutinized with care. The burden of proof on the prosecution extends to every element of the crime charged, including the burden of proving beyond a

1	reasonable doubt the identity of the defendant as	
2	a perpetrator of the crime for thich he stands	
3	charged.	
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5	Adapted from: Devitt and Blackmar, Federal Jury Practice and	
6	Instructions, Supplement to Section 11.32, page 71-72.	
. 7	United States v. Barber, 442 F.2d 517 (3d Cir: 197	1)
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MacMAHON, J.:

THE COURT: All right, bring the Jury in.

(At this point the Jury was returned to the courtroom.)

It is your function and duty to accept the law as

I give it to you, whether or not you agree with it,

and apply it to the facts as you find them. In

short, I am the exclusive judge of the law. You,

on the other hand, are the exclusive judges of the

facts. You, and you alone decide what weight, what

effect, and what value you will give to the evidence.

You decide whether or not to believe the witnesses

and, of course, ultimately you decide the guilt or

innocence of the Defendant in this case.

Now, you are not to conclude from any rulings
I have made throughout this trial or any questions
that I have asked that I have any opinion one way
or the other as to the guilt or innocence of the
Defendant. That decision is exclusively up to you.

Now how do you go about finding the facts.

Finding the facts is merely a process by which you,
the Jury, consider the exhibits which have been

received in evidence, consider the testimony of all the witnesses on direct and on cross-examination, sift out what testimony you believe, weigh it in the scale of your reasoning powers, draw such conclusions as your common sense and experience tell you the evidence supports and justifies, and decide just where the truth lies in this case.

Now in this connection evidence may be of two general kinds, direct evidence and circumstantial evidence. Evidences direct when the facts are shown by exhibits which have been received in evidence or when shown by witnesses who have actual knowledge of them from something that they have learned through the exercise of one of their senses, their sight, their hearing, their smell, and so on.

a logical inference or conclusion from all of the other facts that have been seen or heard.

The classic example of circumstantial evidence is Robinson Crusoe studying the footprint in the sand. He did not see the man, but his knowledge of human nature and other signs that he had, he decided that there was another man on the island. Of course, not all circumstantial evidence is as clear and as convincing as the example I have

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given to you. But, nonetheless, you are all familiar with the process you use in your everyday lives. You draw the logical conclusions from all of the other facts and you apply that same logical process here.

Now, it is your memory of the evidence that controls. Not the way I remember it. Not the way Counsel remember it.

Sometimes juries are only out a few minutes and I get a note that they want the testimony of this witness read or that witness read and they obviously haven't even tried to remember it or discuss it with each other or have their memory refreshed from another juror who might remember it. That is not to say that you are not entitled to have testimony read back if you wish it. but before you do that, you make sure that you don't remember it. Make an attempt to remember it by discussing it with your fellow jurors to see if your own memory can't be stimulated or refreshed by the other juror's memory of the evidence. If you should want any evidence read to you, or any part of this charge, it takes some time to find it. The reporter has to look through his notes. The testimony has not yet been transcribed.

Now, when I say it is your memory that controls, if your memory agrees with what the lawyers told you as their version of the evidence in their closing arguments, you can accept what they say. But to the extent that you have a different recollection, you are bound to reject their version of the evidence and rely upon on your own memory. What I said about the lawyers also applies to me.

One of your most important functions is determining which witnesses you will believe, and that is so as to every witness whether called by the Government or by the Defense, and whether or not the witness is a police officer or a member of the FBI. You are not to be influenced by the position of the witness, nor by the number of witnesses called by either side; nor by the number of documents received in evidence. You are concerned not with the quantity but with the quality of the evidence.

The first test which you should apply in determining the trustworthiness of the witness is to measure what he says against your everyday common sense. You are not bound to believe unreasonable statements or accept testimony which

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insults your intellegence just because the statements are made under oath in a public court.

You saw the witnesses in this case. deciding whether to believe a witness you should consider his manner on the Stand as well as what he said. I saw you observing these witnesses with particular care as they were testifying. You were obviously sizing them up. How did a witness impress you? Was the witness being frank or was he being evasive? Was his version of the facts straightforward or was he trying to hide anything? Was he just parroting answers; did he have any motive for testifying falsely; is he interested in any way in the outcome of this case? How strong or weak was his memory on important evidence? In short, can you rely on him? Can you trust him? Did he show friendliness or hostility or threat toward either side in this case? You ought to consider also the witness' opportunity to know the facts about which he testified. the probability or improbability of what he said. How did his testimony add up when considered with all of the other testimony? How far does his story check out with the other evidence? Are there any inconsistencies in his testimony, and if so,

In this connection, you will recall that at the time Jones testified, you will recall that Jones testified-here that he, Broadwater, and another man robbed the bank. Police officers testified, however, that shortly after he was arrested, Jones confessed and told them that Denson was the third man who participated in the robbery.

As I told you at the time, Jones' statement to the police officers implicating the Defendant is not binding on the Defendant Denson and it may not be considered by you as evidence of his guilt,

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nor as proof of the truth of Jones' statement, or as affirmative proof that Denson was, in fact, the third man. The officer's statement about what Jones told him may be considered by you only on the question of whether you believe the testimony of Jones on this trial. If you find that his statement to the police is inconsistent with his testimony here.

Jones and Broadwater also testified that they had pled guilty to the crime charged here.

Now, you may not consider the fact that they confessed to the crime or that they pled guilty or that they admitted and informed you of that on the witness stand as evidence, as Denson was not a party to such confession, and he has denied his guilt here by his plea of not guilty.

Broadwater, Jones, and Mrs. Armster and perhaps, Mr. Isaacs, may be considered by you as accomplices in this crime. If you find as to any one of them they have knowingly and voluntarily united with Jones and Broadwater and a third man in the commission of this crime of bank robbery with a common purpose and intent to commit the crime.

There is no question in the evidence that

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Broadwater and Jones united to commit a crime.

There is some question whether Isaacs and

Mrs. Armster voluntarily joined in the crime.

That is for you to decide. Did they know that a crime was being committed? Did they unite with the others, with the robbers, to commit the crime or to share in the proceeds of it? Those are questions which you must decide as to Isaacs and Mrs. Armster.

And now, if you find that they were accomplices, you should consider that fact in testing their credibility and in weighing their testimony. Obviously, a witness is not incapable of telling the truth about what occurred because he is an accomplice, but you must examine his testimony with special care and act upon it with caution.

In the prosecution of a crime, the

Government is frequently called upon to use persons
who are accomplices. Often it has no choice. After
all, the Government must rely on witnesses truths
and actions, such as they are. Otherwise, in many
instances, it would be difficult to detect and
prosecute wrongdoers, and this is particularly so
in cases involving a joint-crime venture.

Here there is no dispute that three people at least were jointly involved in the commission of this crime. Frequently, it happens that only those in interest of the venture can give evidence which is material and important to the case.

Now there is no requirement that the testimony of an accomplice be corroborated or supported or backed up by other evidence. Conviction can rest upon the testimony of an accomplice, alone, if you believe.

The credibility of Jones, Broadwater, Isaacs, and of Mrs. Armster, like all other witnesses, is for you and you alone to determine, taking into account the interest of the witness, his relationships, whether friendly or hostile to the parties in this case. His motive. Any inducements or consideration he may have received or hoped to receive from the Covernment. Any hostility he may feel toward the Government or toward the Defendant, and any other evidence you recall and believe which may reasonably be considered to influence and color his testimony.

Now, the witnesses, Broadwater and Jones, also testified that they had been convicted of crimes in the past. Indeed, both admitted it here in open court that they had pled guilty to the crime

charged here.

You may consider the fact that a witness has been convicted of a crime in determining his credibility and the weight to be given to his testimony.

Now if you find that any witness has deliberately and wilfully lied with respect to any material fact in his or her testimony upon this trial, you may follow either one of two courses. You may accept as much of the witness's testimony as you believe, or you may reject his entire testimony.

Now before discussing the crimes charged here, I want to remind you that an indictment is a mere accusation. It is not evidence of the truth of the charge made and you are to draw no inference of guilt from the mere fact that the Defendant has been indicted. An indictment simply means that a defendant has been accused of a crime. The Defendant has denied the charge made against him here by his plea of not guilty. The Defendant has no burden of proof to sustain in this case. He is under no obligation to produce any witnesses. He is presumed to be innocent and this presumption of innocence continues throughout the trial and during your

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deliberations of the case. This presumption is overcome when, and only when the Government establishes the guilt of the Defendant beyond a reasonable doubt.

Now what do I mean by beyond a reasonable doubt? As the phrase implies, a reasonable doubt is a doubt based upon reason. A reason which appears in the evidence or in the lack of evidence. It is not some vague, speculative, imaginary doubt, nor doubt based upon emotional sympathy or prejudice, or upon what some juror may regard as an unpleasant duty. The Government is not required to prove the Defendant's guilt beyond a doubt which is called an absolute or mathematical certainty, because such proof is usually impossible in human affairs. You should take the evidence as you remember it. Sift out what you believe. Discuss it. Analyze it. Weig it in the scale of your reasoning powers and compare your views of the evidence with that of your fellow jurors. If that process produces a solemn belief or conviction in your mind such as you would be willing to act upon without hesitation, if this was an important matter of your own. Then you may say that you have been convinced beyond a reasonable doubt.

On the other hand, if your mind is wavy or so uncertain that you would hesitate for acting if this was an important matter of your own, then you have not been convinced beyond a reasonable doubt and your verdict must be not guilty.

And now in order that you may be guided in your deliberations on Counts I and II, I am going to hand your foreman a copy of the indictment.

You will notice that Counts I and II name three defendants. But only the Defendant Robert Lee Denson is on trial before you. He is the only one whose guilt or innocence you must announce in your verdict, although in considering his guilt or innocence you may have to determine the nature of the participation of the other named defendants.

Now, Count I of the indictment charges that on or about September 12, 1973 at Syracuse, New York, Robert Lee Denson, Jr., the Defendant on trial, Kelvin Broadwater, and Raymond Jones, by intimidation did take from the person and presence of Mary Tallarico, Robert Hours, and Paul J. Weatherup, about twenty-three thousand four hundred and fourteen dollars in money belonging to and in the care, custody, control, management, and possession of the Tirst Trust and Deposit Company,

the deposits of which were then insured by the Federal Deposit Insurance Corporation.

Now in order to establish the charge contained in Count I, the Government must prove to your satisfaction beyond a reasonable doubt each of the following three facts.

One, that the deposits of the First Trust and Deposit Company were insured by the Federal Deposit Insurance Corporation as of September 12, 1973. There is a stipulation by the parties that the deposits were so insured by the Federal Deposit Insurance Corporation on that date. So there is nothing for you to decide as to the first fact.

That is conceded.

Two. That the Defendant knowingly, wilfully and knowingly took money, or aided and abetted others who took money belonging to or was under the care, custody, control, management, and possession of the bank, from the person and presence of a bank employee, here Mary Tallarico, Robert Hours, and Paul J. Weatherup.

Again, there is no dispute in the evidence that on September 12, 1973, three men entered the bank, held up the teller, Mrs. Tallarico, with a sawed-off shotgun, and took money from the possession

of the bank and from the presence and persons of Mrs. Tallarico. The question, of course, here is whether the Defendant on trial was one of those robbers or whether he knowingly aided and abetted one of the robbers.

The third fact which the Government must establish beyond a reasonable doubt is that the money was taken by force, violence, or intimidation from the person or presence of another. Here, a bank employee.

Now to back up, intimidation means to take money by putting any person in fear of bodily harm and such fear must arise from something said or done by the robber or robbers rather than from mere timidity on the part of the victim. It is not necessary, however, that the victim become terrified, panic-stricken, hysterical, or was afraid at all. If you find that an ordinary person would have been put in fear of bodily harm when a sawed-off shotgun was pointed at them, or from anything said, that the alleged robber or robbers said or did under all of the circumstances, then you may find that there was a taking by intimidation.

Now, Count II of the indictment charges that on or about September 12, 1973, at Syracuse, New

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York, Robert Lee Denson, Jr., the Defendant on trial, Kelvin Broadwater, and Raymond Jones, by force and by violence and by intimidation did take from the persons and presence of Mary Tallarico. Robert Hours, and Paul J. Weatherup, about twentythree thousand four hundred and fourteen dollars in money belonging to and in the care, custody. control, management, and possession of the First Trust and Deposit Company, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and that Denson, Broadwater, and Jones in committing the aforesaid offense did assault Mrs. Tallarico, Mr. Hours, Mr. Weatherup, and others, and did put in jeopardy the life of said persons by means and use of a dangerous weapon, that is, a sawed-off shotgum.

Now if you find beyond a reasonable doubt from the evidence that the Defendant did commit or aided and abetted in the commission of the crime charged in Count I of the indictment, then you must determine whether the evidence also establishes that the lives of Mary Tallarico, Robert Hours, or Paul J. Weatherup, or others, were put in jeopardy by means of a dangerous weapon as charged in Count II of the indictment.

The essential difference between Counts I and II is putting the lives of the bank employees, or others, in jeopardy by means of a dangerous weapon.

A dangerous weapon is a weapon which either in its very nature or by reason of the use made of it in all of the circumstances is capable of use against another to cause a serious bodily injury, or even death.

In this case, you can conclude a gun was used in the commission of the offense, you may infer that the gun was loaded from all of the circumstances, even though there was no direct proof of this.

In this regard, consider the evidence of the way in which the gun was used. Was it used to frighten others in such a way that it had to be loaded? Did the flourisher of the gun intend to use it?

On the other hand, you have heard that the gum was not loaded during the robbery, and to that you can give such credence as you think it deserves. In short, you are not bound to accept the testimony of Broadwater to the effect that the gum was not loaded. You can consider that and should consider that testimony along with the other evidence bearing

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on the fact that whether the gun was a dangerous weapon and whether the barrel of that gun and those working with it in that robbery, joining in that robbery, put the lives of the tellers or other persons in jeopardy or danger.

means to expose them to danger of death by the use of a dangerous weapon.

The question here is not whether these people were afraid, but rather whether under the particular circumstances they were put in a state of danger, where they were in a state of danger.

Jeopardy means danger. Not fear.

You are not concerned, therefore, with the subjective beliefs or feelings of the victim as you were in Count I. But here, in Count II, you are concerned with the circumstances shown by an objective actual state of danger.

You will notice that in the indictment there is nothing said about aiding and abetting. That phrase nowhere appears in the indictment.

Nevertheless it does charge the Defendant with aiding and abetting in both Count I and Count II by reference to what is known as the Aiding and Abetting Statute, which is Title 18, United States

Code, Section 2. You will notice those numbers on the bottom of the Count.

Now, the law of the United States provides

that whoever commits an offense against the United

States or aids and abets, counsels, induces, or

procures its commission, is punishable as a

principal. Thus, if you find, you may find the

Defendant guilty of either or both counts if you

will find beyond a reasonable doubt that he knowingly

aided and abetted another in the commission of the

particular crimes charged in Count I and Count II.

In such circumstances, the Defendant would be just

as guilty of the crime as if he had committed it

himself.

Before you can convict a defendant, however, of aiding and abetting, you must find that the crime was committed by another, hereby, Broadwater and Jones, and that the Defendant consciously associated himself with a criminal venture with the intent that his conduct would aid its success. You must be convinced beyond a reasonable doubt that he was doing something to forward the crime of the other person, that he was a conscious, knowing participant rather than a mere bystander or spectator; that he had a stake in its success.

If you find that those factors were present beyond a reasonable doubt, then you will find the Defendant was an aider and abettor.

The important question in this case is whether the Defendant, Denson, was in fact the third robber. And that poses the question of the proof as to the identity of the third robber.

You will recall, I am sure, the testimony of Alton Isaacs to the effect that he was standing outside the bank; three persons, all whom he recognized, having seen them playing basketball earlier, including the Defendant, came to him and told him to tap on the window if he saw any cops coming, or words to hat effect.

Alton Isaacs identified the Defendant here in Court as the third robber.

Broadwater and Jones to the effect that the Defendant was not the third robber.

The Government has also offered a substantial amount of circumstantial evidence, evidence that the Defendant, shortly after the robbery, spent substantial amounts of cash; that he was seen both before and after the crime in the company of Broadwater by a number of people, and other similar

I only mention those little bits of the evidence that I think that that is the only evidence that is important. Or that I intend to emphasize that evidence. Rather, I am simply mentioning it to focus the problem that you have with respect to identification. The other evidence is equally important, and it is for you to give it such weight as you think it deserves.

Now the reliability of an identification of am eyewitness like Isaacs obviously depends upon all the surrounding circumstances. There was evidence here that Isaacs identified the Defendant Denson on earlier occasions by selecting him from amoung a group of photographs, a book of photographs. The circumstances of those earlier identification procedures should be considered by you in determining the reliability of Isaacs' identification of the Defendant on this trial, as the third robber.

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very day of the robbery. Those, as to the photographic identification, as some of the factors you should consider, and the lapse of time between the witness' initial observation of the third robber at the scene of the crime and his viewing of the

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photographs; the time of the day the viewing sessions were held, how long they lasted, the witness' physical and emotional state at that time, the number of photographs shown to the witness and whether the Defendant's picture was among them; whether the witness was able to identify the Defendant as the third robber at the time of viewing the pictures, and if so, whether his identification was quick and certain, or hesitant and uncertain.

of the Defendant as the third robber may also be considered by you in determining the reliability of the witness. Here are some of the facts you should consider. The lapse of time between the initial observation of the third robber by the witness at the scene of the crime and at this trial, and his intervening observations of the robber from photographs. The witness' obsertation of the Defendant at the Counsel table here in the courtroom. The testimony of the witness on direct and crossexamination as to the basis of the witness' identification, and whether the witness was able to identify the Defendant on a previous occasion.

The essential question for you is whether Issacs is able to identify the Defendant here in

Court as the third robber because of the image which
he formed from his independent observation of the
third robber at the time and scene of the crime, or
whether his identification here in Court is the
product of suggestion on these earlier occasions
when he viewed the photographs, or is it a product
of suggestion here in the courtroom. The question
is whether these procedures at the time he was shown
the photographs was so suggestive as to give rise to
a very substantial likelihood of mistaken identification.

You are to consider each Counts, I and II, separately.

considering that the Government has failed to prove beyond a reasonable doubt each of the elements of the crime charged, as I have given them to you, or that the Defendant Denson aided and abetted others in the commission of the crime charged, then you should render a verdict of not guilty on that Count as to the Defendant Denson. On the other hand, if you find as to the Count which you are considering that the Government has proved beyond a reasonable doubt all of the elements of the crime charged as I have given them to you, or that the Government has proved beyond a reasonable doubt that the Defendant

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Denson aided and abetted others in the commission of the crime charged, then you should convict the Defendant Denson on that Count.

Now, you are instructed that the question of possible punishments of the Defendant in the event of a conviction is of no concern of yours, and that it should not in any sense enter into or influence your deliberations. The duty of imposing sentence in the event of a conviction rests exclusively upon the Court. The function of the Jury is to weigh the evidence in the case and determine the guilt or innocence of the Defendant solely upon the basis of such evidence.

Now, when you retire to your jury room, you should treat one another with consideration and respect as I know you will. If a difference of opinion arises, your discussion should be dignified, calm, intelligent. Your verdict must be based on the evidence and the law, the evidence which was presented in this case as you remember it and the law as I have given it to you in this charge. You are each entitled to your own opinion. No juror should acquiesce in a verdict against his conscience individual judgment.

Nevertheless, I would point out that no one should enter a jury room with such pride of opinion that he

would refuse to change his mind, no matter how
convincing of intelligent the arguments on the part
of another juror or jurors. Discussion and
deliberation are part of our democratic jury process
and your deliberations should be approached in that
vein. Talk out your differences. Each of you should
in effect, decide the case for himself or herself
after fully reviewing the evidence and discussing it
with your fellow jurors with an open mind and with a
desire to reach a verdict. If you do that, you will
be acting in a true and democratic process of the
American jury system.

There are twelve of you on this jury. The alernates will be excused with the thanks of the Court before you retire to your deliberations. Your verdict must be the unanimous verdict of all of you and it must represent an honest conclusion of each of you. I submit the case to you with every confidence that you will fully measure up to the oath that you took as members of the Jury to decide the issues submitted to you fairly and impartially and without fear or favor.

Now, members of the Jury, if you find that the Government has failed to establish the guilt of any defendant beyond a reasonable doubt, you should acqui

the Defendant. If you find that the Defendant has not violated the law, you should not hesitate for any reason to render a verdict of not guilty. I said, "any defendant". I meant this Defendant.

to prove that this Defendant is guilty beyond a reasonable doubt, then you should acquit him. But on the other hand, if you find that the Government has established the guilt of the Defendant beyond a reasonable doubt, you should not hesitate because of sympathy or any other reason to render a verdict of guilty.

When you retire for your deliberations, you should elect from one of your number, one of your members, to act as foreman or forelady, and your foreman or forelady will return an oral verdict in open court of either guilty or not guilty as to each Count.

Are thereany exceptions? If so, I will hear you at the Bench.

(The following discussion took place at the Bench outside the hearing of the Jury.)

MR. WELCH: Nothing, thank you.

MR. MICHAELS: Your Honor, I take exception to the charge in which you discussed Alton Isaacs.

I have no quarrel with any words you said, but I feel in relating your view and recollection of the testimony of Alton Isaacs, and the one thing you didn t say was he admitted that there had been a prior description of the Defendant being a man of five-foot seven, and by not saying it, as I listened to it, you perhaps didn't give it any weight. I didn't take you down word for word. THE COURT: You mean Isaacs had given an 10 earlier description? MR. MICHAELS: That was described, several of the descriptions described the man as five-foot-seven 13 or five-foot-eight. (The following remark was made to the Jury in 15 open court.) THE COURT: In giving consideration to Isaacs' testimony in identifying the Defendant, you should consider carefully any earlier descriptions, such as the height of the third robber, the weight and the 20 height of the Defendant here on trial, or any other 21 earlier description, with the Defendant's actual 22 appearance here in this case. 23 (The following discussion took place between 24 the Court and Counsel outside the hearing of the Jury) 25 THE COURT: Is that satisfactory?

	1	MR. MICHAELS: Thank you, Your Honor. I don't	11
Constitution of the last	2	know whether you want me to go on and raise any other	
and some	3	points.	
A STATE OF THE PARTY OF	4	THE COURT: Raise them now. Don't waste time.	
The second		the Deginning of the Charge,	
-	6	you were talking about the fact that Broadwater, Jone	
		Mrs. Armster, and Isaacs may not be considered	
Secondary.	8	THE COURT: I said may be considered in	
March San	9	evaluating the testimony.	- 355
September 1	10	MR. MICHAELS: All right. I have no other	
-		exceptions to the Charge and no other requests.	*****
SOUTH STATES	12	MR. WELCH: Thank your	
Second Proper	13	(The following took place in open court with	
-	. 14	the Jury present.)	
The separate	15	THE COURT: Swear the guards.	
-	16	THE CLERK: Will the guards please step forward	
-	- 37:217	(Lena Gazetti and Joseph Scaramizano sworn that	
distantania di	18	you will guard the Jury.)	
Constitution of the last	19	THE CLERK: The alternate jurors are now excuse	a
-	20	The Jury may now retire to consider their verdi	
STATE STATE	21	(Whereupon at 11:00 the J y retired to their	
Name and Publisher	22	deliberations.)	
-	23	THE COURT: I am sending in a copy of the	
-	24	indictment and all exhibits to the Jury. Look them	
and the same	25	over, each of you, and see if you have any objections.	
-			

1	MR. WELCH: No objection.
2	MR. MICHAELS: No objection.
3	THE COURT: You should not send in the
- 4	stipulations. You read them out loud.
5	(Whereupon at this point a short recess was
6	taken after this the following occurred.)
7	THE COURT: The Jury wants a magnifying glass
- 8	to look at the evidence available. Is there any
9	objection?
10	MR. WELCH: No objection from us.
11	MR. MICHAELS: I assume they are looking at
12	the photographs.
13	THE COURT: I don't know what they are doing.
14	MR. MICHAELS: I object to it, Your Honor.
15	THE COURT: I have replied to their note,
1 16	"Jorry, there is no magnifying glass." Is that
17	satisfactory?
18	MR. MICHAELS: Yes, sir.
19	(At this point a luncheon recess was taken.)
20	
21	
22	
23	
24	
25	

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

ROBERT LEE DENSON, JR.,

Defendant

AFFIDAVIT

STATE OF NEW YORK) COUNTY OF CAYUGA) SS.:

LEE S. MICHAELS, being duly sworn, deposes and says: That I am not a party to the action, am over 18 years of age, and reside at E. Genesee St. Rd., Auburn, N.Y.

That on the 24th day of May, 1974, I served a copy of the within Brief and Appendix on the Hon. James M. Sullivan, United States Attorney for the Northern District of New York, Attorney for the Government at the United States Court House and Post Office, Syracuse, New York, the address designated by said attorney for that purpose, by depositing a true copy of same enclosed in a postpaid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Post Office Department within New York State.

LEE S. MICHAELS

Sworn to before me this 24th day of May 1974.

Me hard A Whicheng Cayuga County # 1410 Hy Comm's expires H

HOL. 30, 1976